

# IPA Global Report on Copyright & Publishing



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# **IPA Global Report on Copyright & Publishing**

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### Acknowledgements:

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# Executive summary

## Objective

The first edition of the IPA Global Report on Copyright & Publishing aims to provide an overview of aspects of copyright law and policy in the 69 countries where IPA's members are established, based on the issues that are most relevant to the publishing industry. The objective of this report is to characterise the main features of national copyright laws that concern the publishing industry, with the aim of assisting IPA members in assessing their priorities in terms of copyright policy activities and drawing information about how other countries tackle similar challenges.

In addition, this report includes interviews with representatives of IPA members that are active members of IPA's Copyright Committee on the latest copyright developments and strategic priorities on copyright policy and law in their countries.

## Structure

The country reports provide the following information:

1. Accession/ratification to and respective implementation of three copyright treaties administered by the World Intellectual Property Organization (WIPO): the Berne Convention, the WIPO Copyright Treaty and the WIPO Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled. These treaties are core to the publishing industry as they provide the international framework for copyright protection through exclusive rights, as well as the conditions to establish exceptions to and limitations on the exclusive rights, in addition to setting out obligations for Member States to provide adequate and effective enforcement mechanisms.
2. Definition of published works that are protected by copyright in each jurisdiction, including physical, digital and audio formats of books and literary works.
3. The set of exclusive economic rights granted to published works, which are essential to define the legal framework that sustains sales and licensing. A reference to the existence of moral rights is also included.
4. A brief reference to special provisions applicable to copyright ownership, transfer and assignment or rights, and regulations on publishing contracts is also made
5. Enforcement mechanisms available in each jurisdiction, with a focus on online enforcement. This table includes detail on availability and regulations applicable to criminal sanctions, civil remedies, administrative action, precautionary measures, protection and sanctions for circumvention of technical protection measures (TPM) and rights management information (RMI), availability of special regimes for online infringement, liability of internet service providers (ISP).
6. Exceptions and limitations to copyright protection that might affect the publishing industry, notably those applicable to educational institutions, libraries and archives, visually impaired and circumvention of TPM protections.

## Membership to Regional Intellectual Property Organisations

Information regarding the membership of countries in regional intellectual property organisations is included in this report. These organisations usually have a role in policy making as well as in providing legislative assistance and capacity building support to their member states. As such, they are an additional interlocutor to IPA members, to whom national publishing associations (PA) may reach out in addition to their national copyright offices.

In Africa, there are two main regional intellectual property organisations: the African Regional Intellectual Property Organisation (ARIPO) whose membership is drawn mainly from the English-speaking countries in Africa and some non-English speaking countries; the Organisation Africaine de la Propriété Intellectuelle (OAPI) whose membership is drawn from the French Speaking countries on the continent. Other regional organisations are the European Intellectual Property Office, to which all European Union member states are members. Many countries examined are not members of a regional IP organisation.

## The International Copyright Treaties Administered by WIPO: Berne Convention, WIPO Copyright Treaty and WIPO Marrakesh Treaty

The Berne Convention, adopted in 1886, was the first international copyright treaty to shape the protection of literary and artistic works, providing creators with the rights required to control how their works are used by third parties. This important treaty currently has 179 Contracting Parties, from a total number of 193 countries that are Member States to WIPO.<sup>1</sup> It has been amended and revised on several occasions, now including an Appendix that permits developing countries to implement non-voluntary licenses for translation and reproduction in certain cases in connection with educational activities.

In addition to establishing the foundations of reciprocal protection between member countries, the Berne Convention sets out the following exclusive rights: right to translate; right to make adaptations and arrangements; right to perform a work in public; right to recite literary works in public; right to communicate to the public; right to broadcast; right to make reproductions; and right to use the work as a basis for an audiovisual work. With the grant of exclusive rights to the creator/author, any use by a third party must be authorised by the author or by the legitimate holder of said rights, where the author has assigned or transferred them.

These exclusive rights may be subject to exceptions and limitations, as enacted by national law, which must comply with the three-step test<sup>2</sup>. Under the three-step test, exceptions and limitations to copyright must be limited to certain special cases that do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author.

While the Berne Convention establishes an obligation for Contracting Parties to grant said exclusive rights for at least 50 years, multiple governments now provide for life of the author plus 70 years as the current standard for term of protection. The Berne Convention

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<sup>1</sup> WIPO Administered Treaties: Contracting Parties Berne Convention [https://www.wipo.int/treaties/en/ShowResults.jsp?treaty\\_id=15](https://www.wipo.int/treaties/en/ShowResults.jsp?treaty_id=15)

<sup>2</sup> WIPO Copyright Treaty and WTO Agreement on the Trade Related Aspects of Intellectual Property Rights (TRIPS).

further enables countries to set out moral rights, notably the right to claim authorship of a work (attribution) and the right to object to mutilations, deformations or modifications prejudicial to the author's honour or reputation (integrity).

All countries where IPA members are established, except Iraq and Somalia, are Contracting parties to the Berne Convention.

The WIPO Copyright Treaty (WCT), adopted in 1996, is a special agreement under the Berne Convention, updating the legal framework set out for the protection of copyrighted works in the digital environment.<sup>3</sup> In addition to the rights granted under the Berne Convention, the WCT establishes the right of distribution, the right of rental and a broader right of communication to the public, including the right of making available, which is essential to the current business models employed by the publishing industry in the digital environment, notably the licensing of ebooks and audio books. In addition, the treaty obliges countries to ensure that enforcement procedures are available under its laws to enable rightsholders to take action against any act of infringement of rights, including remedies to deter and prevent further infringement. It is therefore a key legal instrument to ensure an adequate and effective level of copyright protection essential for digital business models employed by the publishing industry to serve consumers' needs. This treaty has currently 104 Contracting Parties.

Some countries where IPA members are established have signed the WCT but have yet to ratify it, namely Israel, Kenya, South Africa and Venezuela. Nevertheless, Kenya has adopted provisions in relation to the digital environment, drawn from the WCT, in its recent copyright law review.

Bangladesh, Egypt, Iraq, Côte d'Ivoire, Iceland, Jamaica, Lebanon, Libya, Mauritania, Nepal, Saudi Arabia, Somalia, Sri Lanka, Thailand and Tunisia have not signed, acceded to or ratified the WCT.

Other countries such as Norway or Iceland have adopted provisions in their national laws granting the level of protection set out in the WCT (notably exclusive rights of distribution, rental or making available) even if they are not parties to the Treaty.

The WIPO Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled was adopted in 2013. It creates a mandatory set of exceptions and limitations to permit reproduction, distribution and making available of accessible format copies of published works for the benefit of visually impaired persons, and to permit cross-border exchanges of said accessible formats between authorised entities that serve those beneficiaries.

Some of the countries under study, notably Côte d'Ivoire, Mauritania, Ireland, Nepal, and Senegal have yet to ratify the Treaty.

This study examines the status of each of the 69 countries in relation to ratification or accession to the Berne Convention, WIPO Copyright Treaty and the Marrakesh VIP Treaty

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<sup>3</sup> See <https://www.wipo.int/treaties/en/ip/wct/>

(meaning that countries become Contracting Parties to the treaty and are bound by its provisions), as well as the respective implementation of the provisions set out in each of the treaties into national copyright laws, making them directly applicable at the national level. An overview is provided below:

## Accession/Ratification and Implementation of WIPO Treaties

Country	Berne		WCT		Marrakesh VIP	
	Ratified/ Acceded	Implemented	Ratified/ Acceded	Implemented	Ratified/ Acceded	Implemented
Albania	✓	✓	✓	✓	X	X
Argentina	✓	✓	✓	Partial	✓	✓
Armenia	✓	✓	✓	✓	X	X
Australia	✓ <sup>4</sup>	✓	✓	✓	✓	✓
Bangladesh	✓	✓	X	X	X	X
Belgium	✓	✓	✓	✓	✓	✓
Bosnia & Herzegovina	✓	✓	✓	✓	X	X
Brazil	✓	✓	X	X	✓	✓
Canada	✓	✓	✓	✓	✓	✓
Chile	✓	✓	✓	✓	✓	✓
China	✓	✓	✓	✓	X	X
Colombia	✓	✓	✓	✓	X	X
Denmark	✓	✓	✓	✓	✓	✓
Egypt	✓	✓	X	X	X	X
Finland	✓	✓	✓	✓	✓	✓
France	✓	✓	✓	✓	✓	✓
Georgia	✓	✓	✓	✓	X	X

<sup>4</sup> Declaration of Continued application

Country	Berne		WCT		Marrakesh VIP	
	Ratified/ Acceded	Implemented	Ratified/ Acceded	Implemented	Ratified/ Acceded	Implemented
Germany	✓	✓	✓	✓	✓	✓
Ghana	✓	✓	✓	✓	✓	X
Greece	✓	✓	✓	✓	✓	✓
Hungary	✓	✓	✓	✓	✓	✓
Iceland	✓	✓	X	X	X	X
India	✓	✓	✓	✓	✓	✓
Indonesia	✓	✓	✓	✓	X	X
Iraq	X	X	X	X	X	X
Ireland	✓	✓	✓	✓	✓	✓
Israel	✓	✓	X	X	✓	✓
Italy	✓	✓	✓	✓	✓	✓
Ivory Coast	✓	✓	X	X	X	X
Jamaica	✓	✓	✓	✓	X	X
Japan	✓	✓	✓	✓	✓	✓
Jordan	✓	✓	✓	✓	✓	✓
Kenya	✓	✓	X	✓	✓	✓
Lebanon	✓	✓	X	X	X	X
Libya	✓	✓	X	X	X	X
Malaysia	✓	✓	✓	✓	X	X
Mauritania	✓	✓	X	X	X	X
Mexico	✓	✓	✓	✓	✓	✓

Country	Berne		WCT		Marrakesh VIP	
	Ratified/ Acceded	Implemented	Ratified/ Acceded	Implemented	Ratified/ Acceded	Implemented
Morocco	✓	✓	✓	✓	✓	✓
Nepal	✓	✓	✓	✓	X	X
Netherlands	✓	✓	✓	✓	✓	✓
New Zealand	✓	✓	✓	✓	✓	✓
Nigeria	✓	✓	✓	✓	✓	✓
Norway	✓	✓	X	X	X	X
Panama	✓	✓	✓	✓	✓	✓
Peru	✓	✓	✓	✓	✓	✓
Philippines	✓	✓	✓	✓	✓	✓
Portugal	✓	✓	✓	✓	✓	✓
Republic of Korea	✓	✓	✓	✓	✓	✓
Russia	✓	✓	✓	✓	✓	✓
Saudi Arabia	✓	✓	X	X	✓	X
Senegal	✓	✓	✓	✓	X	X
Serbia	✓	✓	✓	✓	✓	✓
Singapore	✓	✓	✓	✓	✓	✓
Slovenia	✓	✓	✓	✓	✓	✓
Somalia	X	X	X	X	X	X
Sri Lanka	✓	✓	X	X	✓	✓
South Africa	✓	✓	X	X	X	X
Sweden	✓	✓	✓	✓	✓	✓

Country	Berne		WCT		Marrakesh VIP	
	Ratified/ Acceded	Implemented	Ratified/ Acceded	Implemented	Ratified/ Acceded	Implemented
Switzerland	✓	✓	✓	✓	✓	✓
Thailand	✓	✓	X	X	✓	✓
Tunisia	✓	✓	X	X	✓	✓
Turkey	✓	✓	✓	✓	X	X
Ukraine	✓	✓	✓	✓	X	X
United Arab Emirates	✓	✓	✓	✓	✓	✓
United Kingdom	✓	✓	✓	✓	TBC*	TBC*
United States of America	✓	✓	✓	✓	✓	✓
Venezuela	✓	✓	X	X	✓	✓

\*The UK signed the Marrakesh Treaty on 28 June 2013, but its participation has been on the basis of ratification by the European Union on 1 October 2018. The UK is taking the necessary steps to ratify (and implement) the agreement as a separate participating state.

## Copyright protection granted to published works in countries where IPA members are established

Most national copyright laws enacted in countries where IPA members are established provide for the protection of published works as literary works. The protection granted to published works usually extends to any formats of publication, including ebooks and audio books. The exclusive economic rights granted typically include rights of reproduction, distribution, rental, lending, communication to the public and making available – meaning that any acts of use of these rights must be authorised by the copyright owner and might be prohibited to deter infringements, in case of unauthorised uses. These exclusive rights are granted to the rightsholder, who in several countries is the author, except where literary works are created under employment agreements or commissioned, in which case usually the rights belong to the employer or commissioning party.

In the publishing industry, publishers usually acquire the rights originally granted to authors by transfer or assignment, in order to enable the economic exploitation of the work, to the benefit of both author and publisher. This collaborative partnership enables authors to dedicate their time and effort to what they do best – writing the works – while

relying on publishers' investments and skills to reach their audiences and benefit from the full potential of economic exploitation of their creation. In scientific, technical and medical publishing, as well as in educational publishing, authors are often hired or commissioned by publishers to produce literary, scholarly works. In this case, publishers bear the full investments and risks of producing literary works to the benefit of large audiences. Most national laws of countries where IPA members are established have dedicated provisions that enable the functioning of copyright ownership in terms that enable publishing business models to be sustainable.

Some countries have specific provisions in relation to reversion of rights, that is, after a period of time the rights that have been transferred or assigned by the author to the publisher will revert back to the author, enabling a new window to exploit the works. This is the case of the United States and Canada. In some countries, reversion is only applicable for rights granted prior to a certain period of time for instance in New Zealand, it applies to works granted prior to April 1, 1963, in South Africa, rights granted prior to September 10, 1965 and in Australia, May 1, 1969.

Most countries analysed have set out exceptions and limitations to exclusive rights. Some countries have fair dealing provisions combined with an exhaustive list of cases where it can be applied (e.g. United Kingdom), others provide an exhaustive list of exceptions and limitations (e.g. European Union member states), while a few employ fair use doctrine (such as the U.S.) or a facsimile of the concept (e.g. countries that have adopted a so-called fair use regime but which do not have the accompanying legal precedents that help define the contours of the doctrine). The main difference is that fair use is determined on a case by case basis, with courts of law assessing whether the use falls within the limits set out for fair use (usually four or five factors must be assessed), in addition to respecting the three-step test as set out in the Berne Convention and in the WCT. The information on exceptions and limitations as presented in this report has been compiled based on copyright laws, but also on studies published by WIPO.

For countries that have implemented the Marrakesh Treaty, there are specific provisions for the production of accessible format copies in relation to access to printed materials by visually impaired persons, while a few are restricted to specific formats such as braille or audio books. Where technological protection measures (TPMs) are applied, the Marrakesh Treaty provides that countries shall take measures to ensure that the legal protections against circumvention of TPMs do "not prevent beneficiary persons from enjoying the limitations and exceptions provided for in this Treaty."<sup>5</sup>

Adequate and effective mechanisms to ensure copyright owners can enforce their rights against any act of infringement, that is unauthorised and/or illegal uses, are provided in most copyright laws analysed in this study. In some cases, national laws set out specific mechanisms to enforce against online infringement of rights, which enforcement framework includes rules on liability of internet service providers and sets out criteria that ISPs must comply with in order to qualify for safe harbour protections. Both the United States and the European Union have adopted a notice and take down regime to combat online infringement, notably setting out safe harbours for ISPs only when they act

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<sup>5</sup> Marrakesh Treaty, Article 7: Obligations Concerning Technological Protection Measures. Contracting Parties shall take appropriate measures, as necessary, to ensure that when they provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures, this legal protection does not prevent beneficiary persons from enjoying the limitations and exceptions provided for in this Treaty.



expeditiously to deter ongoing infringements (e.g. by taking down or preventing access to infringing content once notified by copyright owners). In addition to a basic notice and take down system, several jurisdictions have adopted a no-fault injunctive regime (i.e., website blocking) through which a rights holder may apply for a court order requiring online intermediaries to prevent their subscribers from accessing sites that traffic in or facilitate access to infringing content. Recently, the European Union updated its regime with a notice and stay down obligation.

Most laws provide determination of infringements in courts of law, either through civil litigation or criminal prosecution. The civil lawsuits, where determined in favour of copyright owners, will entitle them to compensation through damages, accounts for profits or provide other remedies such as delivery and destruction of pirated goods. In the case of criminal prosecution, the person found guilty of infringement is liable to pay a penalty or be imprisoned for a certain period of time or both.

There are provisions in some countries for administrative action and precautionary measures including through customs departments and intellectual property offices. These mechanisms in some cases include site-blocking procedures to deter online infringement of copyright. The issue of liability of internet service providers seems to be relatively new for quite a number of countries and has thus not been addressed in several laws. Not all countries have provisions for enforcement in the case of circumvention of technological protection systems nor special provisions in their laws for online infringement.

Out of the 69 countries, for example Australia, Canada, Chile, Finland, Greece, Indonesia, Jamaica, Kenya, Malaysia, New Zealand, Norway, Portugal, Republic of Korea, Singapore, Switzerland, the United Kingdom and the United States, along with other countries that are member states of the European Union, have laws that provide for a comprehensive enforcement regime including means to tackle online infringement.

## Best Practices

There are several countries that have up to date copyright laws, providing appropriate copyright protection for copyrighted works and establishing adequate and effective enforcement mechanisms, in particular in the online environment. We have selected a few countries as examples.

On the African continent, many copyright laws still require modernisation, in particular to handle online infringement, which is a worldwide challenge that significantly impacts the publishing industry, generating considerable harm and inflicting the harms of unfair competition on African publishers. The IPA has been working closely with its members in Africa to promote engagement of national authorities, which are increasingly sensitised to the need to fight against piracy. African publishers are great contributors for promoting the vibrant cultures of their countries and appropriate copyright protection is paramount to ensure African publishers can continue to invest in publishing high quality African literature, technical works, and educational textbooks.

Kenya concluded a copyright law review in 2019. Among other amendments, the review aimed at improving online enforcement. Section 24 of the Amendment Act provides a safe harbour provision, limiting internet service provider liability for copyright infringement subject to certain conditions. One of these conditions is that internet service providers do not “in any way promote the content or material being transmitted”. Therefore, internet service providers that promote content, notably by selling advertisement or organizing playlists, will arguably not be able to benefit from the safe harbour. On the other hand, the recent review sets out a notice and take down procedure to deter online infringement. It also sets out that a malicious takedown notice is a crime and attracts a fine and/or imprisonment. The courts will define what a malicious takedown notice is, but it seems clear that copyright owners in the publishing industry will have to be careful in reviewing their notices to ensure good faith and due process can be verified.

Nigeria is in the process of reviewing its copyright law, with creative industries highly committed to supporting authorities in moving forward. One of the main aspects of the long-awaited reform is modernizing online enforcement mechanisms and strengthening the means to combat physical piracy. With vibrant publishing and creative sectors, Nigeria will have a lot to gain for its national industries if it invests in combatting rampant piracy and discouraging illegal sales of copyrighted works.

Ghana is expected to review some aspects of its copyright law in 2020, notably provisions concerning collective management. Although Ghana has implemented the exclusive rights set out in the WCT (including the digital-essential making available right), it does not yet have a legal framework to **effectively** tackle **online** copyright enforcement. IPA stand ready to support our members in Ghana in engaging their authorities to this important priority.

The United States and the European Union are two jurisdictions that provide the most advanced copyright legal frameworks in the world with regard to copyright protection and enforcement. In addition to a full set of exclusive rights required to sustain creative industries' business models in the digital age, these jurisdictions also provide adequate and effective enforcement mechanisms, with criminal, civil and administrative measures to deter and prevent online infringements, including safe harbour regimes that intend to incentivise online intermediaries to respond expeditiously to take down notifications.

In the United States, in addition to specific exceptions to copyright protection in the law, there is also the fair use doctrine, which operates as a defence against an allegation of infringement. The European Union, on the other hand, adopted a model based on an exhaustive list of exceptions and limitations for private use, educational, social and cultural purposes, subject to the three-step test. Both jurisdictions have acceded to the Marrakesh Treaty.

In the European Union, the Digital Single Market Directive approved in 2019 will impose on internet service providers the obligation to adopt notice and stay down procedures, while creating new exceptions for education, text and data mining and cultural institutions. Educational exceptions will only be applicable if licenses are not available and cannot be invoked to justify unauthorised uses of textbooks and other materials created for educational purposes.

In Asia, the Republic of South Korea has one of the most advanced enforcement frameworks, specifically dealing with online infringement and establishing liability for internet service providers, following the 2017 amendment to its copyright law. In addition to a full set of exclusive rights and balanced exceptions based on fair dealing, Korea's copyright law is one of the pillars that fosters a well-developed publishing sector.

Singapore conducted public consultations in 2016, 2017 and 2019 with the aim of reviewing its copyright law, dated from 1987. Among other measures, the Ministry of Law announced the intention of creating “new enforcement measures be made available to copyright owners to deter retailers and service providers from profiting off providing access to content from unauthorised sources”. Currently, Singapore's copyright law provides that “(a)n infringement occurs when a substantial amount of the original work, quality-wise, has been copied without permission and when a person imports infringing copies for sale or distribution, makes available infringing copies for sale or rent, that disadvantages the owner or offers infringing copies for sale or hire by way of trade.”

China is in the process of reviewing its copyright law, having launched two public consultations in 2020. According to the latest version submitted to public consultation, China's copyright law will include the Berne Convention's “three step test” in the Limitations of Rights section, raises the amount of punitive damages up to CNY 5,000,000 (or ten times) and sets out the legal framework enabling access to publications for people with blindness or visual impairments, an effort towards the accession/ratification of the Marrakesh VIP Treaty.

In June and July 2020, China's Supreme Court released for comments two relevant draft decisions regarding online infringement of intellectual property rights, in the context of disputes involving e-commerce platforms. The draft Guiding Opinions of the Supreme People's Court on the Trial of Intellectual Property Disputes Involving E-Commerce Platform (Exposure Draft) set out that “Where an e-commerce platform business knows or should have known that an in-platform business infringes upon any intellectual property right, it shall take timely and necessary measures according to the nature of the infringed rights, the specific circumstances of the infringement and the technical conditions. The necessary measures to be taken shall follow the principle of reasonableness and prudence, including but not limited to measures such as deletion, blocking or disconnection of links. Where an in-platform business has intentionally infringed upon intellectual property on multiple occasions, the e-commerce platform business shall have the right to adopt measures to terminate transactions and services.” Furthermore, the Guiding Opinion clearly states that “Where an e-commerce platform business knows or should have known that an in-platform business infringes upon any intellectual property right but failed to take necessary measures, or failed to take timely and necessary measures after having received the notice from the owner of the intellectual property right, it shall be jointly and severally liable with the infringer for all the losses of the owner of an intellectual property right.” China's Supreme People's Court's draft Reply on the Application of Laws in Disputes related to Internet Intellectual Property Infringement reinforced the guidance by stating that “After receiving the notice given in accordance with the law by an intellectual property right owner, if the internet service provider and

*the opera-tor of the e-commerce platform fail to take necessary measures to delete, or block, or disable relevant links, it shall be jointly and severally liable with the internet user or the operator on its plat-form with regard to the additional injury or damage".* The final decisions are expected to be published in the last quarter of 2020.

Malaysia enacted its copyright act in 1987 and last amended it in 2012. It has acceded to both the Berne Convention and the WIPO Copyright Treaty. Malaysian copyright law allows for the transfer of economic rights and includes provisions to enable copyright enforcement, including specific provisions for online infringement as well as limitation on liability of ISP providers. Exceptions and limitations include general exceptions under fair dealing, exceptions for the visually impaired, reproduction by libraries, archives and educational institutions. The law exempts libraries, archives and educational institutions from liability in case of circumvention of technological measures for purposes of using the exceptions.

Jamaica enacted its Copyright Act in 1993 and last amended it in 2015, being party to both the Berne Convention and the WIPO Copyright Treaty. It has an adequate enforcement regime which includes civil, criminal, administrative as well as precautionary measures.

Australia's copyright law was enacted in 1968 and last amended in 2017. The most recent amendments addressed the challenges posed by online piracy, strengthening the enforcement of copyright and also included provisions for safe harbours for ISPs, limiting their liability in certain circumstances. It also has specific provisions in the case of online infringement: it provides for injunctions against carriage providers providing access to online locations outside Australia which facilitate infringement.

In Latin America, all countries where IPA has members provide for the relevant set of exclusive rights required by the publishing industry. However, enforcement mechanisms made available to copyright owners are not yet adapted to online infringement in most countries. Adequate provisions on liability of internet service providers and appropriate enforcement mechanisms that enable site-blocking measures or notice and stay down procedures for example are still a need in the region, notably in Colombia, and Argentina.

In 2020, Mexico has reviewed its copyright law, which is now well equipped to combat online infringement.

While Chile revised its copyright law in 2017 to establish administrative measures such as website or content removal as a consequence of notice-and-takedown procedures, the enforcement regime does not yet include clear and comprehensive secondary liability standard, essential to a functioning notice and take down system. Internet service providers are required to remove or disable access to infringing content only upon the issuance of a court order, following a lengthy and complicated court process. However, criminal and civil remedies are available, and they are also applicable to physical piracy.

The Brazilian administration announced in 2019 the intention to publish a draft copyright review bill in the first semester of 2020. The announcement followed a public consultation

which indicated Brazil's intention to accede to the WCT, and political statements indicating Brazil is now supporting increased copyright protection of creative industries' investments, legal certainty and enforcement as policy priorities. Should that be the case, there is renewed hope for IPA's Brazilian members with regard to the country's capacity to tackle online infringement and have a legal framework that fosters its flourishing publishing industry. In 2020, Brazil launched a consultation on a National IP Strategy, following a consultation on a bill to implement the Marrakesh Treaty.

The publishing sector in Latin American countries is extremely dynamic, with a large volume of works published every year both on trade and educational areas. Efficient mechanisms to combat piracy, in particular in the digital environment, are therefore a priority for IPA members in the region.

## Conclusion and acknowledgements

The promotion and protection of the principles of copyright is one of IPA's pillars and the reason why many of our members chose to work with us. As its statutes set out, a principal objective of the IPA is to *"promote and protect by all lawful means the principles of copyright on which de-pend the encouragement of authorship, publishing and dissemination of creative works and to de-fend copyright against all infringements which may restrict the rights of authors and publishers"*.

This report is a first step towards establishing a comparative law review that serves the interests of the publishing industry across the world, with the purpose of assisting IPA members in engaging their policymakers to establish appropriate mechanisms to promote strong copyright protections and therefore enable this important industry to continue to thrive. Should this document serve our members, this first edition will be updated and expanded.

We are thankful to have found most of the analysed copyright laws made available by WIPO at WIPO Lex.

We would like to thank the invaluable contributions of our members of the IPA Copyright Policy Working Group in conceptualizing this project. A sincere thanks also to our Chair of the Copyright Committee, Jessica Säger, for her constant support, guidance and knowledgeable reviews. This work also benefited from the valuable insights of Kristenn Einarsson, Chair of the Freedom to Publish Committee, who in addition incentivised us to go for it as a project for the Lillehammer Congress.

A final acknowledgement to Marisella Ouma, expert in copyright law, who provided the country reports' research, analysis and drafts.

IPA is especially grateful for the contributions and revisions to the country reports made by our Copyright Committee members and friends, who helped with the expert reviewing process and generously enriched this report with their knowledge and time:

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A final note to say that this work was done with joy but not without hurdles. For many countries, we could not find official translations of copyright laws, and had to rely on machine translation. This caused difficulties in assessing content and references. We do ask our members and readers to please inform us of any inaccuracies or needs to complete and modify the country reports.

We hope you enjoy your reading.

Your sincerely,

IPA Secretariat

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**MEMBERS VOICE**

## AUSTRALIA



**AUSTRALIAN PUBLISHERS ASSOCIATION**  
**MICHAEL GORDON SMITH, CEO**

### What are the priorities of your organisation on copyright policy?

Like publishers everywhere, Australian publishers depend on copyright laws that are robust and suited to the contemporary world.

Secure property rights are foundational to a prosperous modern economy. Copyright should be recognised as a part of that foundation, with fundamental principles that are unchanged by the emergence of new technologies.

When legislation needs modernisation, change should be done in collaboration with the publishing and other creative industries, and technology providers should have an active role in preventing damage to the rights of creators and copyright owners.

### What are the main challenges faced by publishers in your country with regard to copyright policy and law?

Large sectional interests with strong voices are seeking to gain advantage by weakening copyright.

Authors, publishers and other copyright industries have a smaller voice in international trade negotiations than the industries now dominated by very large global companies. That's true at a global level, and doubly so for a relatively small industry such as Australia's.

Australia created an innovative Statutory Education Licence that allows copying of text and images without permission in return for equitable remuneration to creators. The scheme gives individual educators a high level of freedom with no transaction costs. Even with 'equitable remuneration' rates that provide great value when considered on a per-student basis, over time the centralisation of payments has been one factor that has contributed to more active opposition by educational authorities to existing copyright laws.

A story about copyright acting, unlike other property rights, as a brake on innovation and entrepreneurialism has been promoted by some parts of the tech and start-up sector, and strongly fuelled by very large corporate interests.





**Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent? It can be an initiative (either from your PA or government) to raise awareness, policy or advocacy interventions, court cases, collaboration with copyright authorities on enforcement.**

In 2016 the Australian Publishers Association initiated discussions to address the challenge of improving print accessibility between representatives of publishers, print disability organisations, libraries, and governments.

This cross-industry approach has developed shared understanding and commitments to action that is likely to provide better outcomes for all parties, including both publishers and the print disabled.

## BELGIUM



**FLEMISH PUBLISHERS ASSOCIATION**  
**EVI WERKERS, HEAD OF THE CENTER OF KNOWLEDGE**

### What are the priorities of your organisation on copyright policy?

Our main focus is to let our voice be heard in the debate regarding the implementation of the European Copyright in the Digital Single Market Directive. We also question the current procedure that is in place for public consultation regarding changes to the copyright law which currently runs through an Advisory Board that should be composed of both representative rightsholders and users. Book publishers, however, are not admitted in the group of rightsholders. An open consultation in all transparency would be a considerable improvement. We also lobby for the preservation of self-regulatory mechanisms (mediation and ethical codes of conduct) to stimulate professionalisation and to remedy conflicts between stakeholders in the book publishing sector.



**GEWU**  
 Groep Educatieve en Wetenschappelijke Uitgevers

### What are the main challenges faced by publishers in your country with regard to copyright policy and law?

- The fight against piracy and the re-use of content of publications without authorisation (not just the GAFA but also new business models of smaller scale targeting for example students, teachers by re-using textbook material),
- The broadening of exceptions exceeding the ratio of the Copyright in the Digital Single Market Directive
- The introduction of a contract adjustment mechanism (art. 20 Copyright Directive)
- The need for an evaluation of the embargo periods in the Belgian Open Access Law
- The potential adoption of Plan S by the scientific federal and Flemish funding agencies

### Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?

Following the ruling by the ECJ in the case of HP/Reprobel, publishers are finally considered as rightsholders as regards reprography and private copy levies. Furthermore, the Flemish Group of Trade Publishers and the Flemish Authors Association agreed upon a new model contract for trade publications. The contract was adapted in such a way that it brings more transparency for both parties and takes into account the latest market developments. Both parties also agreed to commit themselves to install an Ethical Committee and to adopt a professional deontological code.

## BRAZIL



**CAMARA BRASILEIRA DO LIVRO**  
**FERNANDA GARCIA, EXECUTIVE DIRECTOR**

### What are the priorities of your organisation on copyright policy?

The Brazilian Book Chamber priority is to guarantee the protection of copyright in the parliamentary level. We have acted in the several proposals for the reform of the Copyright Law since its first draft, always engaging other organisations that have synergy with the book sector and that contribute positively to the defense of copyright.



### What are the main challenges faced by publishers in your country with regard to copyright policy and law?

There are many bills designed to change the copyright law. Most of these bills bring proposals that inadequately expand the limitations and exceptions to copyright without any compensatory remuneration to copyright holders. Proposals like these could come from parliamentarians or from the Executive, so it is important to maintain permanent performance in both.

### Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?

The main strength of the publishing sector in Brazil is working together. We have several book's associations in our country, which makes building consensus positions a little more difficult, but it valuable because we have a single discourse and together we are stronger. Last year we worked together again: A public consultation was opened to present suggestions for reforming the copyright law, even an association of children's book illustrators signed a proposal with us. We don't have the results yet.

Another interesting initiative that we would like to share is that we will soon inaugurate a digital services platform that will offer, in addition to ISBN and index card for publishers, copyright registration using blockchain technology.

## BRAZIL



**SINDICATO NACIONAL DE EDITORES E LIVREIROS  
DANTE CID, BOARD MEMBER**

### What are the priorities of your organisation on copyright policy?

SNEL is currently focused on three priorities:

1. the review of Brazilian copyright law being performed by the National Secretariat of Intellectual Property;
2. the implementation of the Marrakesh Treaty in Brazilian Legislation.
3. working with the National Congress to discuss two law bills that heavily affect copyrights.

On the initiatives above we have been working together with many society sectors aiming for a sustainable regulation.

### What are the main challenges faced by publishers in your country with regard to copyright policy and law?

One great challenge is the high rate of non-readers in Brazil, demonstrated by recent polls showing that less than 20% of Brazilians claim to read at least one book per year.

Another relevant challenge is piracy. We have an increasing availability of illegal books copies online while the current legal framework is not suited to provide the required agility of online communications.

### Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?

SNEL organises initiatives to encourage book reading across the country, such as campaigns in highly visible communication vehicles showing the value of reading a book.

Additionally, SNEL sponsors a permanent taskforce to seek illegal posting of books online. We hope that the review of the copyright law being performed by the National IP Secretary can enable easier coping with the online environment.



## CANADA



**ASSOCIATION OF CANADIAN PUBLISHERS  
KATE EDWARDS, EXECUTIVE DIRECTOR**

### What are the priorities of your organisation on copyright policy?

Since the introduction of the *Copyright Modernisation Act* in 2012, ACP has focused its efforts on several recommendations, which are expanded upon in our [2018 submission](#) to Canada's statutory review of the *Copyright Act*. These include:

- Clarify fair dealing for education

“Education” was not defined when it was added as a purpose for fair dealing under the *Copyright Modernisation Act*. In response, the education sector unilaterally adopted unfair copying guidelines in late 2012 and early 2013, and ceased paying licensing fees to rightsholders. The sector's guidelines have been found to be unfair by the Federal Court of Canada, and the accumulated liability of the sector is now more than \$150 million (CAD) in licensing revenue alone. This loss is exacerbated by an unknown loss of primary book sales. Clarification of fair dealing is urgently needed, either in the form of amendments to section 29 of the *Copyright Act*, or through the introduction of regulatory language.

- Promote a return to licensing through collective societies

The adoption of unfair copying guidelines emboldened institutions to systematically copy large amounts of copyright-protected materials for instructional use without compensation. Used successfully in other countries and the province of Quebec, ACP believes that collective licensing remains the most effective means of ensuring that students and educational institutions can easily and inexpensively access the published materials they need while providing creators and publishers with fair remuneration for use of these works. We continue to promote efforts that encourage Canada's entire education sector to return to collective licensing agreements.

- Ensure Canada's international treaty obligations are met

Canada's *Copyright Act* and the Supreme Court of Canada's interpretation of fair dealing are widely viewed as inconsistent with international treaty obligations, including the Berne Convention, the TRIPs Agreement, and the WIPO Copyright Treaty. These inconsistencies have damaged Canada's reputation internationally and have been highlighted by foreign governments as impediments to trade. ACP recommends that the government ensures conflicts between Canada's copyright regime and international law are resolved.



## What are the main challenges faced by publishers in your country with regard to copyright policy and law?

- Insufficient remedies to discourage infringement

The *Copyright Modernisation Act* reduced statutory damages for infringement for non-commercial use to \$5,000 (CAD) per instance of infringement [section 38.1(1)]. This low penalty has compounded the problems stemming from the Act's poorly defined fair dealing provisions, and it has encouraged infringement. Educational institutions do not see this penalty as a risk, and have no incentive to negotiate licences or conform to tariffs set by the Copyright Board. For publishers, the legal fees required to assert their rights exceed the damages they are likely to collect.

In addition, the Canadian Copyright Board's inability to enforce its own decisions and the inconsistency of the remedies offered to collective societies by section 38.1(4) of the *Copyright Act* also put independent publishers in an unsustainable position. Currently collective societies who serve writers and publishers can only collect penalties for infringement that are equal to the value of the Board's tariff. Effectively this gives the education sector the option of deferring payment for use of copyright-protected works until ordered by the courts. Harmonizing the remedies for collective societies under the Act would level the playing field among Canada's creative industries and encourage respect for Board tariffs.

- Increased polarisation among the user and rightsholder communities

The relationship between the education sector and Canadian rightsholders has become increasingly polarised over the last 15-20 years, through successive copyright reform processes and enforcement actions. New copyright limitations and exceptions are positioned by the user community as being in the public interest, while rightsholders continue to make the case—one that is arguably also in the public interest—that fair remuneration is a precondition for the existence of vibrant creative industries and the continued supply of relevant and original educational resources, tailored to the unique needs and demands of local communities. As we begin a new decade, our ongoing challenge is to transform what is often seen as an adversarial relationship, to one built on partnership, collaboration and trust.

## Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?

Developed with the 2018 parliamentary review of the *Copyright Act* in mind, a coalition of almost 30 organisations across the creative industries launched the "[I Value Canadian Stories](#)" campaign, which called on government to restore fair compensation to creators and publishers for the use of their works by the education sector. In addition to videos and a social media campaign, the coalition provided supporters with templates that could

be customised for local Members of Parliament and other key officials involved in the review, and invited them to send these at several critical moments over the course of the government's consultations. The coalition's broad message—that Canadian content is important to the Canadian education system and should be compensated—allowed supporters to make the most of scarce resources to speak with one voice on a shared priority, which complemented the more technical recommendations brought forward by our different organisations during the review. The campaign exceeded our expectations: 2,755 letters reached MPs by email, and the campaign hashtag (#IValueCdnStories) was used more than 4,500 times.

The addition of fair dealing for education in 2012, combined with the education sector's exceedingly broad interpretation of several Supreme Court decisions made the same year, precipitated a rapid change in behaviour on the part of both K-12 and post-secondary educational institutions when it comes to collective licensing. In the process, the content produced by professional publishers has been devalued, which contributes to the challenge of repairing a broken marketplace. Writers, publishers, and copyright collectives have been persistent in their advocacy and enforcement work, and recognise that no single initiative will turn the tide. With this in mind, our work comprises a number of complementary efforts:

- Consistent advocacy to federal and provincial officials, both elected representatives and members of the public service.
- Participation in government consultations, including the 2018 statutory review of the *Copyright Act* and 2017 review of the Copyright Board.
- Research to demonstrate changes in our market stemming from copyright policy and implementation, most notably PwC's "[Economic Impacts of the Canadian Educational Sector's Fair Dealing Guidelines](#)".
- Mobilisation of writers, publishers, and supporters through public-facing campaigns, including "[I Value Canadian Stories](#)," which reinforces the need for fair compensation to ensure the continued production of Canadian-specific learning resources.
- Litigation to defend the rights of content creators and producers, including the *Access Copyright v. York University* trial and appeal, and ongoing litigation launched by provincial K-12 Departments of Education and school boards (outside of Quebec). Since launch of this suit, the province of British Columbia has withdrawn and relicensed its K-12 sector, offering a model for other provinces.



## FRANCE



**SINDICAT NATIONAL DE L'ÉDITION**  
**ARNAUD ROBERT, CHAIR OF SNE'S LEGAL COMMITTEE**



### What are the priorities of your organisation on copyright policy?

In the digital environment, SNE aims at preserving an incentivising legal framework for authors and publishers to continue creating new diverse and high-quality works. It is also endeavouring to facilitate the enforcement of authors and publishers' rights.



### What are the main challenges faced by publishers in your country with regard to copyright policy and law?

The myth of free content, the economic crisis and the fact that copyright solutions may be seen as solutions to lack of public funding, as well as the technicalities of the issues such as "text and data mining" which may be difficult to grasp by politicians who certainly want to look modern.

### Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?

The most important copyright related issue has been the negotiation and the adoption of the European Copyright directive. This is the result of the strong mobilisation of the book chain, along with other cultural industries, and represents a remarkable victory for cultural diversity.

However, the text includes copyright exceptions mainly impacting the book sector. During the discussions, there was general trend in favour of enlarging the exceptions, in particular to the benefit of the GAFAs. In fact, no other European text since ACTA (Anti-Counterfeiting Trade Agreement) led to such an intense and even violent campaign. The debate focussed on two issues: the establishment of a press publishers' right and the liability of platforms to solve the current value gap.

Today this text represents a compromise which was hard to find. But it should allow existing systems to be maintained for the uses of researchers, teachers and librarians, while preserving the economic balance of the book sector. Our first priority was the educational exception for digital uses. The definition of its framework was obviously a vital stake in particular for textbooks publishers, as educational establishments are



indeed their main market. This is why French RRO, CFC, launched a communication campaign “Content for Education” in which IFRRO and FEP also participated. It was also crucial to set up appropriate safeguards when the EU decided to adopt an exception for “text and data mining” including for commercial purposes. Moreover, the directive is also providing for necessary measures for the book sector: to secure out-of-commerce book initiatives, on the one hand, and to provide a solution following the decision of the European Court of Justice *HP vs. Reprobel* which had denied the legitimacy of publishers to get a remuneration in case of an exception, on the other hand. We are now working on the implementation of the directive at national level, which must be done by 2021.

## GERMANY



**BORSENVEREIN DES DEUTSCHEN  
JESSICA SÄNGER, DEPUTY HEAD OF THE LEGAL  
DEPARTMENT**



**Börsenverein des  
Deutschen Buchhandels**

### What are the priorities of your organisation on copyright policy?

Our top priority in terms of urgency this year is regaining the publisher share in CMO distributions in Germany. This was lost in 2016 due to a decision of the German supreme court that was based on the HP/Reprobel judgment of CJEU from November 2015. The damage, in particular to SMEs, has been significant, in some cases resulting in the failure of publishing businesses. Now that Art. 16 of the DSM Directive permits Member States of the EU to operate schemes where publishers receive compensation for e.g. uses under exceptions or library lending from CMOs, we expect the German legislator to put such a system in place. Another policy area requiring our attention is electronic lending.

### What are the main challenges faced by publishers in your country with regard to copyright policy and law?

In March 2018, a set of broad exceptions for education and research came into force that are having a heavy impact on sales of university text books in particular. While uses of copyright protected material on the intranets of educational institutions are exploding, new editions even of previously successful textbooks are in jeopardy. Other challenges to the sector lie in concentration in retail and distribution as well as changing behaviours of readers in the age of smart phones and Netflix.

### Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?

In November 2019, we published a [study on electronic lending by public libraries](#). This has been very useful in shedding light upon the groups of readers making use of these offers and how the availability of electronic borrowing options changes their book buying habits. As it turns out, those borrowing electronic books for free tend to be quite well-heeled book buyers who often end up buying fewer books as a result, despite being quite heavy readers. Another important outcome is that users of the electronic lending services are generally very satisfied with the selection of titles available there. By no means is there a chronic lack of attractive titles – something libraries often complain about when asking for exceptions to enable electronic lending.

## GHANA



**GHANA PUBLISHERS ASSOCIATION**  
**ASARE KONADU YAMOAHA, PRESIDENT**



### What are the priorities of your organisation on copyright policy?

The Ghana copyright law was enacted in 2005 (2005, Act 690). In 2010, the enabling legislation L. I was passed to give effect to the parent Act.

This means that it has been nineteen years since the Act was passed and the actual implementation of the law has been nine years. The Ghana Publishers Association has been an active member of the various committees that have been working under the Act.

One of the responsibilities of the Copyright Monitoring team is to ensure the monitoring of infringement of copyright works. The Ghana Publishers Association has a number of priorities on copyright policy which involve strong enforcement mechanisms to, among other things, fight piracy. Piracy is a major challenge to publishing in Ghana. As an organisation, we have been working with the Copyright Office to ensure the monitoring of works to arrest pirates. The success of our business largely is affected by the frequency of piracy.

Another area of focus has been registration of works. Members are encouraged to register their manuscripts and published works at the Copyright Office in Accra. The object is not to confer copyright but to act as depository and usually assist when there is a dispute.

Reprography is another area of interest to the Association and the association is well represented on the board. Publishers have received their share of reprographic fees since 2014.

### What are the main challenges faced by publishers in your country with regard to copyright policy and law?

The Copyright Office which has responsibility to ensure the implementation of the law has not been well resourced over the years to achieve their expected mandate for publishers and other stakeholders in the industry. The challenges encountered by publishers are:

- Lack of effective anti-piracy operations due to financial constraints and limited pragmatic strategies to fight piracy including imported pirated books. This is a disincentive to publishers in the business of publishing.



- Piracy and copyright violations reduce economic gains of publishers and the Industry: The existence of piracy and the sophistication of pirates where mostly pirated books appear more quality in physical features than the original. Unfortunately, pirates do not pay taxes, therefore owners of the works lose and the nation also loses to piracy.
- Inadequate training and sensitisation of the enforcement agencies such as the police and the judiciary.
- Penalties for copyright offences are not deterrent enough. The penalty units in the law need to be revised but they have not been done. This renders the law ineffective and criminals sent to court for copyright offences are released having paid small fines.
- Ignorance of some stakeholders in the Book Industry and the general public on the copyright law triggers violations other than others who deliberately violate the law with impunity. Adequate public education on copyright law, limitations of usage by the public and punitive measures should be done.

**Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?**

The collaboration between the various rights holder groups have been initiated. There is a joint committee of collective management organisations that works on exchanging information and intelligence on piracy and digital theft.

The Copyright Office, together with stakeholders, has been running workshops to deepen the understanding of the Copyright law amongst rights holders.

Last two years, the Copyright Office organised a workshop for judges to enable them appreciate the copyright law and the need to pass good judgements.

There is an instituted training programme for police officers every year that the Copyright Office and the Ghana Police Service jointly organise for the police.

The Copyright Office has started consultations amongst the stakeholders to review the regulations and the Act. There is a committee under the directive of the Copyright administrator. In 2017, WIPO in collaboration with the Copyright Office organised a workshop for the stakeholders.

## NETHERLANDS



**DUTCH PUBLISHERS ASSOCIATION**  
**MARTIJN DAVID, SENIOR ADVISOR**



### What are the priorities of your organisation on copyright policy?

At this moment we very much focus on the implementation of the DSM directive, a first draft circulated last Summer and is now revised after comments from, amongst others, the DPA, and probably be sent to Parliament just before or after this Summer. We also focus on Open Access in a discussion with Universities, and on a parliamentary inquiry to the Dutch Copyright Act and especially the functioning of the Copyright Contract Act from 2015 which will be held this year.

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### What are the main challenges faced by publishers in your country with regard to copyright policy and law?

Our main challenge remains to maintain the balance between ‘publishers’ (in the broadest sense) and ‘authors’ (idem), i.e. the balance between entrepreneurship and taking financial risks versus fair remuneration/fair shares. Open Access is causing ‘confusion’ to the exact implementation. Public lending, including ebooks, remains a concern for general publishers as especially the traditional legal framework for PLR does not fit the new way in which libraries give access to their collection.

### Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?

We represented our members (especially the general publishers) in a court case against Tom Kabinet, a second-hand ebook retailer, which just had a verdict by the European Court of Justice (more detail below).

We are involved (represented in the board and financially) in Stichting Brein, a foundation specialised in copyright infringements. They have several cases, amongst the The Pirate Bay, brought to the European Court of Justice.

We give copyright courses (basics and advanced) for our members.

We supported members, in this case educational publishers, in a case against Snappet which involved the copyright on educational methods.

We have worked closely with organisations for blind people to support our members to make their publications more accessible, all according to new regulations.

## The Tom Kabinet Case

In the Summer of 2014, a Dutch company called Tom Kabinet (in Danish meaning “empty bookshelves”) started a second hand ebook platform. Their claim was that the so called UsedSoft case, in which the EC decided that software could be sold ‘second-hand’, was applicable to ebooks as well.

It took five years and several (Dutch) rulings and questions to the EC to get where we are now. Although Tom Kabinet focussed on ebooks, the case could include other categories of digital works such as video, music or any other audio-visual digital file.

The main issues were whether Tom Kabinet could rightfully make their claim that ebooks are software and therefore the Software Directive was applicable (a claim that was considered invalid according to the Court in The Hague and the EC) and whether Tom Kabinet practices were a ‘communication to the public’ (art 3 of the InfoSoc Directive) and whether the resale of ebooks was an exhaustible act of distribution.

Although the court in The Hague argued, for strange reasons, the Tom Kabinet practices were NOT a communication to the public and mostly focused on the exhaustion question, the EC ruled that it was a communication to the public and ruled, like the AG argues, that ‘the supply of ebooks by downloading for permanent use is not covered by the distribution right (...) but is covered by the right of communication to the public.’

The court also took over the arguments of the Dutch Publishers Association that ‘digital copies, unlike books on a material medium, do not deteriorate with use, and used copies are therefore perfect substitutes for new copies. In addition, exchanging such copies requires neither additional efforts nor costs, so that a parallel second-hand market would be likely to affect the interest of the copyright holders...’

## NEW ZEALAND



**PUBLISHERS ASSOCIATION OF NEW ZEALAND**  
**TOM RENNIE, COUNCILLOR FOR COPYRIGHT**

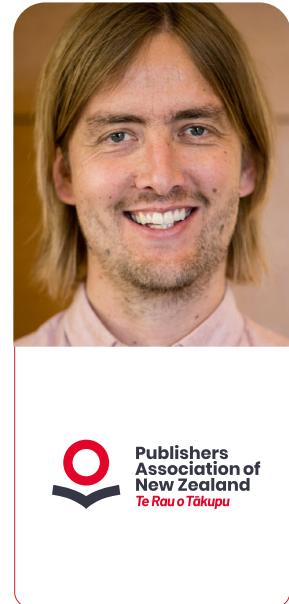
### What are the priorities of your organisation on copyright policy?

Copyright is a central concern for the Publishers Association of New Zealand (PANZ). We have long advocated for a robust intellectual property framework, one that allows creators to flourish and take our nation's stories to the world. This advocacy is now more important than ever due to the New Zealand government's review of our copyright legislation. Launched in 2017, the review is ongoing and will shortly consider specific options for changing New Zealand's copyright settings. Within this context, PANZ's priorities include:

- Ensuring that exceptions do not become normalised and that, instead, legislation continues to acknowledge commercial access as the primary means for users to use, adapt and consume works, whether directly or through licensing.
- Giving creators more control over how their work is sold around the globe. Our law was amended in 1998 to end territorial copyright, adversely affecting our country's authors and publishers to this day.
- Greater harmonisation with our key trading partners. New Zealand remains out of step with our key trading partners on copyright term (at 50 years) and, following changes to UK copyright law, we lag behind developments in our closest comparable regime.
- Enhanced collective licensing. Copyright Licensing New Zealand offers major efficiencies for a country like New Zealand and we are keen to see these supported and enhanced through the review.
- Effective copyright law. There is stakeholder consensus that enforcement options are inadequate and we expect to see significant improvements through new legislation.

### What are the main challenges faced by publishers in your country with regard to copyright policy and law?

A key challenge is, simply, to help policy-makers grasp the real world of copyright: the central role it plays for us day-to-day right across the industry. Considerations of copyright can all too easily float into the abstract and unreal. PANZ is there to ground understanding of what works (and what doesn't) for authors, publishers, readers and everyone that makes up the rich ecosystem of books in New Zealand today. However, this can be harder to achieve than one might think, with several specific challenges confronting us now with the review work:





- The interdependence and diversity of the books ecosystem is often overlooked, particularly the important differences across trade, scholarly and educational publishing in New Zealand. PANZ represents a wide range of publishers, encompassing a variety of different business models and business sizes. And we all operate within a carefully calibrated ecosystem, underpinned by the copyright regime, made up of distributors, booksellers, readers, libraries and more. At present policy-makers here, for example, appear to think they can best support the creative work of authors in isolation, rather than seeing the whole books ecosystem as critical to getting writing produced and in the hands of readers.
- Similarly, communicating the value publishers bring to the world of books, including the sheer range of our activity, remains a challenge with policy-makers. The gatekeeper myth remains prevalent. We are putting a lot of work into highlighting the value chain that drives publishing. This means surfacing all the designers, developers, editors, illustrators and more that make up our collective endeavour, while emphasising the investment and calculated risk that makes it all possible.
- The inherently global nature of copyright can, at times, risk being overlooked at the expense of domestic policies and idiosyncratic agendas. We are active in emphasising our international obligations and how these underpin New Zealand's future in a knowledge-based global economy.

A recent cautionary experience for PANZ has been the implementation of the Marrakesh Treaty. Despite significant stakeholder coordination throughout the implementation process, our existing commercial availability test was removed from the legislation at the 11th hour with insufficient consultation and inadequate due process. This has emphasised to us the importance of strong industry engagement throughout the upcoming options phase, and to not take anything for granted as the legislative process continues!

**Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent? It can be an initiative (either from your PA or government) to raise awareness, policy or advocacy interventions, court cases, collaboration with copyright authorities on enforcement.**

The publishing industry has played a lead role in transitioning advocacy from a Copyright Council organisation (representing publishing, music, visual arts, film & TV) to one that is an alliance of all of the creative industries (including advertising, architecture, games, design, mixed reality, fashion, media). This organisation – WeCreate – focused initially on securing an economic valuation of the New Zealand creative sector with a particular emphasis on where creative occupations were adding value outside of the creative industries, as well as within the sector.

WeCreate's work to establish the benefits of taking a sectoral approach to the creative industries, lead to the New Zealand government publishing a study into *Copyright and the Creative Sector* in late 2016. This report outlines how copyright is created and used in



the various creative industries and was informed by in-depth interviews with a wide range of participants including representatives of each creative industry, librarians, academics and the GLAM sector.

WeCreate has engaged widely with both industry and government since 2016. This engagement has resulted in the publication of an Action Plan that has 6 focus areas where work needs to be done to grow the creative sector's contribution to New Zealand's economic, cultural and social wellbeing. There is a particular emphasis on digital exports (vitally important for a small country at the bottom of the world), along with education, skills & capability, measurement, regulation (including copyright), connection & collaboration, and capacity & investment. The actions in this plan are a mix of those that industry can do for itself, ones that industry needs to do with government and those that the government can complete. In July 2019, the government announced that the creative sector would be included in an Industry Transformation Plan of 8 sectors that will be invested in to diversify New Zealand's future economy.

During the development of the Action Plan, a group of policy advisors from various government agencies were brought together by WeCreate to participate in the industry/government discussion on the outcomes needed to grow New Zealand's creative economy. There are very few examples in New Zealand of agency collaboration across government, working with a sector on a plan. There continues to be significant value in this government/industry connectedness.

## NORWAY



**NORWEGIAN PUBLISHERS ASSOCIATION  
KRISTENN EINARSSON, BOARD MEMBER**

### What are the priorities of your organisation on copyright policy?

NPA is dedicated to defend and strengthen freedom to publish, both nationally and internationally, increase respect for copyright, also by strengthening the publishers' copyright position, strengthen and develop the position of literature in Norway, and defend and strengthen the publishers' position and take care of their professional and financial interests.

The work on copyright may be divided in four subsections.

#### A. Legal framework

In 2018 the new Norwegian copyright act was adopted. NPA played a role as stakeholder in the long process leading up to adoption of the new act. The new act is mostly a continuation of the old act, but (slightly) more accessible to the public. Some relevant, new features:

- Streaming

Section 3 of the Act provides that streaming is now explicitly illegal if it is “evident” that said streaming is breaking the law and the use of the illegal source is “capable of significantly damaging the financial interests of the author”. A typical example of this would be streaming of copyrighted films without payment to the rights holders from sites such as Popcorn Time, etc. Compensation can only be imposed if the breach is “intentional”. This new provision is not meant to affect casual internet surfing.

- Free use of works in class rooms

This “classroom provision” is not new, but for the first time made explicit in the Act. Section 43(4) of the Act now provides that all performance and transfer of works within ordinary classroom teaching will be considered as taking place in the private sphere, and thus no license needed. The reason why such performances are considered to be held in the private sphere is due to the close personal bond between the teacher and the students. The making and issuing of copies for teaching purposes will, however, still require contractual licenses. It was attacked by rightsholders before and after the adoption of the Act.

- The right to reasonable remuneration



THE NORWEGIAN  
PUBLISHERS ASSOCIATION

Any original author or artist who transfers the rights of their works to others than consumers now have a mandatory right to a reasonable remuneration. Section 69(2) provides further guidance on what should be considered as “reasonable remuneration”, such as what type of rights are being transferred, common practice, and what is the “probable value of the transfer”. Note that the consideration should be based on the conditions at the time of the agreement (this may be changed following the adoption of the DSM Directive).

The Ministry of Culture has informed that it, through a committee, will look at a handful of issues following the adoption of the new act and adoption of EU legislation, such as reconsidering the classroom provision”, and reconsider whether to look at conditions following the time of entering into an agreement, in other words introduce an element of bestseller-clause.

NPA also lobbies and submits comments to the coming implementation of the directive on collective management of copyright, and all other new publisher relevant legislation.

#### B. Model agreement with right holders

In Norway we have an exception from the Competition Act allowing the PA and Norwegian Bookseller Association to enter an agreement on fixed prices and on model agreements with the authors and translator organisations. Model agreements are used in around 75% of publishing agreements in Norway.

We are negotiating with the author guilds and translators (at the end of 2019) on revision of the model agreements, and we hope to agree on solid, balanced model agreements covering modern digital use and leaving the publisher with a possibility to publish in all formats.

#### C. Collective agreements on photocopying and digital use

NPA works through its RRO, Kopinor, to obtain sufficient enumeration for reproduction of copyrighted material.

#### D. Enforcement

NPA works through the Norwegian Rightholder Association to improve enforcement of copyright.

### **What are the main challenges faced by publishers in your country with regard to copyright policy and law?**

A. As to the legal framework, the two biggest challenges are both related to changes that may come in the wake of the new of EU legislation:

- The “classroom provision” (see above). Hopefully, changes will improve the situation for the rightholders.

B. As to the model agreements, there is always a challenge in all renegotiations to streamline the model agreement in order to ensure the necessary rights are transferred to the publisher at a reasonable fee.

C. As to collective agreements on photocopying and digital use, there are two main challenges:

- Through a newly adopted regulation to the Norwegian Copyright Act, public libraries and University libraries may grant access to the legal deposit-material for researchers and higher education students (for research and documentation purposes) through streaming. The access is limited to six simultaneous users. NPA has together with Kopinor (RRO) challenged a new project by the National Library based on this legislation. It has been argued harmful effect to the rightholders of the proposed extension of the libraries right to make available. The streaming service is in a trial period of one year and it will be evaluated in the autumn of 2020. The service has been changed and the access limited due to protests from the rightholders.
- The authors and other rightholders demand a larger cut, at the expense of the publishers, of the money from the RRO. There is pending arbitration on the division of the money from the Bookshelf-project (<https://www.nb.no/search?mediatype=b%C3%B8ker>). The Bookshelf ("Bokhylla.no") is making available in j-peg format of books published in Norway. The books are not prepared for download nor print. (Whole) books are made available to Norwegian IP-addresses for viewing page-by-page. There are some 240.000 books from year 2000 and earlier. The agreement is with the State/ National Library and it is based on Extended collective license with opt-out. It was signed in 2012.

D. With more and more books available digitally, illegal copying is on the rise. Through the RRO, there are campaigns to raise awareness (see below)

**Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?**

The work on legislation etc. is described above. In addition, there are campaigns from the RRO, Kopinor, like this one:

### **That little extra**

*A campaign to raise awareness about copyright among teachers and decision makers within primary and secondary education.*

A study discussing teachers' copying behaviour shows a fluent copying activity through a great variation of techniques, a production mainly used to supplement purchased teaching resources. The copied material is added to customise, update or give a personal pedagogical touch to an assignment. Many teachers however, express an ambiguous

knowledge of copyright and for many there's a need to know more about which rules apply. The Norwegian Ministry of Education and Research launched a new reform in the spring of 2020, where ethical professional competence is emphasised, among others knowledge of source criticism and copyright.

Against this backdrop and in cooperation with the Norwegian teachers' colleges, Kopinor has developed a pedagogical approach and launched a campaign in 2019-2020 to raise awareness about copyright among teachers and decision makers within primary and secondary education. The message is twofold, the importance for decision makers and school owners to keep their part of the agreement made with Kopinor, and how they through spreading this information among the teachers contribute to increasing the competence level concerning copyright regulations required today.

The feedback from the teachers is that knowledge of copyright, and awareness of the fact that they have legal access to copy the little extra they need in their everyday preparation for class activities, within certain limitations, reduces stress and promotes a situation for better creative teaching.

In the course of the campaign, letters and brochures are distributed to all Norwegian school owners, primary and secondary schools. Also, educational films and text material is presented on the Kopinor website and through different arena activities.

Read more: <https://www.kopinor.no/en/licenses/education>

## SOUTH AFRICA



**PUBLISHERS ASSOCIATION OF SOUTH AFRICA**  
**MPUKA RADINKU, EXECUTIVE DIRECTOR**



### What are the priorities of your organisation on copyright policy?

- Stopping the current South African Copyright Amendment Bill from being signed into law and returned to Parliament for reconsideration.
- Guiding lawmakers on how to protect copyright holders through legal and international treaty instruments.
- Lobbying decision-makers, i.e. parliament, relevant Ministry etc. away from anti-copyright thinking.
- Responding to illegal copying and use of copyright materials.
- Contributing ideas and practical steps to help the state address some of the challenges that may be influencing them to move towards anti-copyright actions such as the cost of books, providing pupils/students/youth with access to books and helping to resolve educational/reading challenges etc.



### What are the main challenges faced by publishers in your country with regard to copyright policy and law?

- The lack of a coherent national copyright policy based on legitimate and credible consultation.
- The new Copyright Amendment Bill with wide exceptions and new provisions that will weaken rightsholders' copyright protection.
- Government decision-makers who have certain ideological slants that open them up to anti-copyright impulses and lawmakers and state officials who are indecisive when it comes to providing copyright protection.
- Local and international anti-copyright lobby groups that are influencing various sectors of South African society including librarians, universities and schools, the media and the general public.
- The legal costs of stopping the current detrimental copyright legislation from being passed and the expected possibly astronomical costs should the Copyright Amendment Bill be signed into law and having to be contested in the Constitutional Court.

**Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?**

- The formation of a broad-based creative sector body, the Copyright Coalition of South Africa (CCSA), to prevent the current Copyright Bill being enacted.
- Lobbying of decision-makers in governmental and political circles to create awareness about current copyright challenges.
- Using various media platforms to communicate with different audiences about the problems and dangers posed by the Copyright Amendment Bill, and to bring across a positive, constructive and sustainable approach to copyright which will benefit both the users of copyright materials and the owners of copyright.
- Establishment of an Anti-Piracy committee to prevent a spike in acts of illegal copying particularly in higher education institutions and social circles, e.g. Book Clubs.

## TURKEY



**TURKISH PUBLISHERS ASSOCIATION**  
**ZEYNEP ATIKER, LEGAL COUNSEL**

### What are the priorities of your organisation on copyright policy?

Our priority is to have a balanced operating system for both rightsholders and users. One important step to provide this, is for exclusive rights to be protected and exceptions to be enabled for use in certain situations where the market cannot produce solutions (which would also be more in line with their purpose). It should also be provided that uses under exceptions do not cause unintentional rights violations. These are our priorities on the legislative side to begin with. Implementation of the legislation follows. Generally, the industry should be able to produce its own solutions based on easy and legal access to works in communication with users, according to needs. It's important to create and preserve the necessary environment for this. This approach would be facilitative and solution oriented not only for rightsholders but also for users. It would also strongly support the continuity of production of works.



### What are the main challenges faced by publishers in your country with regard to copyright policy and law?

Awareness is important. Copyright awareness is higher now, due to works the state, we and other stakeholders carried out, but it's still difficult to say that it's an ingrained concept. Besides, unfortunately, there's a widespread understanding which accepts illegal reproduction as legitimate, suggesting the insufficiency of readers' economic means. Another challenge is perception of exceptions as the first method in accessing works, shaping of the legislation accordingly, and it being difficult to change legislation. In our copyright law, there are very broad exceptions which cause rights losses in practice, especially in educational uses. If exceptions are narrowed and the convenient environment is provided for rightsholders and users to produce their own solutions and access models instead of primarily resorting to exceptions, long term and permanent access opportunities could develop, since parties would start meeting their needs unhesitatingly. Digital infringements are a serious issue. Unauthorised and fast sharing of ebooks doesn't motivate publishers, delays digitalisation. Among the amendments expected in our copyright law, there are special actions towards digital infringements, which we hope will speed up the fighting process. Unauthorised reproductions by photocopying are also an important problem. Fight against unauthorised reproductions has been ongoing for a long time, but especially in academic publishing, there's a huge problem. There are 4.8 million students at universities, while the number of books produced per year is 4.3 million; not even one book per student. Students meet their needs mostly via illegal



photocopying. In educational publishing, problems occur because of broad exceptions, unauthorised reproductions via photocopying at schools, etc. To solve these problems affecting these two fields more, in addition to fighting against unauthorised reproductions, publishers develop new business models as their investment capacities allow, but it's not easy. Collective rights management is also to be established in publishing. We hope this will contribute to the solution when it's soundly established and working. Although there are positive developments in legislation and implementation in the recent years, there's still need for remedial arrangements in supporting production and easing users' access to works by protecting copyright more comprehensively.

**Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?**

Intellectual Property Academy has been founded. Its copyright field is administered by the Ministry of Culture and Tourism (MoCT). Purpose of the institution is to conduct training, consultancy, research, etc. In 2017, an amendment was brought to agenda to take copyright levies (currently collected by the state, not distributed to rightsholders) from MoCT's budget and include them in the state's central budget. All relevant industries (publishing, music, cinema, etc.) came together, lobbied against the amendment becoming law and it was revoked. In the continuing works for amendments in the copyright law, the Ministry pledged to transfer part of the levies to rightsholders. However, in December 2019, the related regulation was updated such that new spending items were added to where levies can be used with the Ministry's authority. While expecting a move regarding the pledge of the Ministry to distribute part of the levies, we came upon a regulation change where spending items increase and there's no reference to distribution. In 2018, National Library published a directive in which we opposed three matters: electronic copies of printed books were being brought under legal deposit; electronic copies of works published since 2012 were requested for use by people with disabilities; directive was published before the technical system where e-copies would be sent had been completed. Our Association filed a lawsuit for cancellation of the directive. The case is ongoing. Some amendments to be made in our copyright law have been on the agenda for a long time. All relevant industries actively participated in the works, there has been continuous information and opinion sharing between state institutions and industry representatives. This demonstrates that it's possible and important to listen to each other and communicate directly, and mutual solutions can be developed. Amendments have not been made yet, but the publishing industry's standing together, submitting joint views made it easier for public institutions. As the Turkish Publishers Association, we always keep contact with public authorities, industry stakeholders and our colleagues abroad, present our solution suggestions; we take initiatives for joint works to be done and industrial meetings to be held on topics that need to be discussed. We also support our sister collective rights management organisation YAYBIR (Publishers Copyright & Licensing Society).

## UNITED ARAB EMIRATES



**EMIRATES PUBLISHERS ASSOCIATION**  
**RAWAN DABBAS, LEGAL AND INTERNATIONAL RELATIONS**  
**MANAGER**



### What are the priorities of your organisation on copyright policy?

The Emirates Publishers Association (EPA) prioritises copyright policy in the following ways:

- Launching stakeholder relations campaigns to promote copyright law reforms that adequately protect the works of authors, content creators and publishers.
- EPA supports the Ministry of Economy's efforts to establish a reproduction rights organisation.
- EPA works with relevant ministries via a one-stop-shop established at the EPA which has made it easier for publishers to obtain and renew circulation licenses, obtain ISBNs, register their copyright and new businesses.
- The EPA has a legal clinic which responds to any inquiries local or foreign publishers may have in regards to their rights.



### What are the main challenges faced by publishers in your country with regard to copyright policy and law?

One of the main challenges faced by our publishers is the lack of knowledge or difficulty in obtaining all the licenses and permissions to protect their rights. This is why the EPA has made its one-stop-shop a priority initiative whereby publishers only need to come to one location (the EPA) to get all their documents in order.

### Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?

- The EPA has been working tirelessly with the ministry of economy and other intellectual property organisations in the UAE to establish the region's first collective management organisation. The organisation should be operating within the next year.
- The EPA is also working on various projects with not-for-profit organisations to promote accessible books by providing the required training to our members / publishers.

## SPAIN



**FEDERACION DE GREMIOS DE EDITORES DE ESPAÑA  
MIGUEL BARRETO, PRESIDENT**



### What are the priorities of your organisation on copyright policy?

The priority of the Federación de Gremios de Editores de España with regard to Copyrights is twofold:

- Intensify the fight against piracy, which remains important in Spain and requires increased administrative sanctions.
- Achieve a rapid transposition of the Digital Single Market Directive both in the area of technological liability (Art. 17) and in the area of text mining, educational illustration and library licences, also calling for a new coherent recast text.



### What are the main challenges faced by publishers in your country with regard to copyright policy and law?

The major change for publishers, regardless of what was said in the previous point, would have to do with an update of the current regulation of the publishing contract as well as the recognition of publishers as holders of primary rights.

### Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?

The Federación de Gremios de Editores de España, through the Spanish Centre for Reprographic Rights (CEDRO), the management body of the book world, is present in numerous complaints against piracy both at the administrative level, through the Second Section of the Commission on Intellectual Property, and through the courts of law. Likewise, and through the Coalition of Creators and Content Industries, it has a relevant action in the preparation of a self-regulation code with advertisers and telephone operators (Follow The Money) and in the preparation in Spain of Art. 17 of the Directive.

In addition, we traditionally collaborate very actively with our counterparts in Latin America in the pursuit of piracy in the various countries in that area.

## UNITED KINGDOM



**PUBLISHERS ASSOCIATION**  
**DAN CONWAY, DIRECTOR OF EXTERNAL AFFAIRS**



### **What are the priorities of your organisation on copyright policy?**

The UK's IP framework is currently serving the publishing industry well but is entering a possible period of flux.

With bilateral trade discussions ongoing with the EU, USA, Japan, Australia and New Zealand, and the potential subsequent joining of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), IP chapters in international trade agreements are in the process of being drafted and negotiated.

It is crucial that high intellectual property standards are prioritised and developed in these discussions, to the benefit of publishers in all the countries concerned.



### **What are the main challenges faced by publishers in your country with regard to copyright policy and law?**

The UK's post-Brexit copyright exhaustion regime may pose a real challenge for UK-based publishers.

The UK is currently part of the EU IP trading framework and operates a regional exhaustion regime. Following the end of the transition period on 1 January 2021, this regional exhaustion regime may end and the UK would need to choose between operating a national or international regime.

If the UK government chooses an international exhaustion regime then territorial copyright restrictions would be difficult to enforce, which could prove especially problematic in relation to e-commerce. This would prohibit rightsholders from tailoring their works to the different needs of their customers on a territory-by-territory basis and undermine consumer confidence globally.

### **Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?**

Following the announcement of the Creative Industries Sector Deal in March 2018 the UK government announced that it would work with industry to organise roundtables between rightsholders and online platforms, convened by senior government officials.

These roundtables covered the online advertising industry; social media and user upload platforms; and online marketplaces. The UK government has collected a raft of evidence as part of the process and is now overseeing the negotiation of codes of practice and/or agreement of specific measures between platforms and rightsholders which outline further action to reduce IP infringement online.

The UK PA and other creative industries have taken a leading role in these meetings and it is hoped that the government-convened codes of practice/specific measures will yield tangible benefits for rightsholders.

## UNITED STATES OF AMERICA



**ASSOCIATION OF AMERICAN PUBLISHERS**  
**LUI SIMPSON, SENIOR VICE PRESIDENT, GLOBAL POLICY**

### What are the priorities of your organisation on copyright policy?

Who we are: AAP is the national trade association that represents the leading book, journal, and education publishers in the United States on matters of law and public policy, advocating for outcomes that incentivise the publication of creative expression, professional content, and learning solutions. The U.S. publishing industry supports an extensive network of multinational businesses and thousands of jobs across the globe.



**AAP** | ASSOCIATION OF AMERICAN PUBLISHERS

The preservation and promotion of a strong copyright protection framework in the U.S., and around the world is a key priority for AAP. To this end, AAP continues its advocacy with the U.S. government to ensure that a strong intellectual property, particularly copyright, framework remains a key component of any trade agreement negotiated with trading partners. Where a country may be considering copyright law reform, AAP participates in those processes, through direct comments to the foreign government as well as through collaboration with our domestic counterparts.

The protection and enforcement of the copyrights of our member publishers is likewise a priority. To ensure the copyrights of our members are enforced, and to lend deterrence to markets, AAP brings strategic litigation – both in the U.S. and in priority markets - to protect and enforce its members copyrights, and to ensure that efforts to erode copyright protection are halted. Litigation, when pursued strategically, can send a clear message to the market that publishers will employ the law to protect its investments and enforce its rights.

### What are the main challenges faced by publishers in your country with regard to copyright policy and law?

Overall, the U.S. has a robust copyright protection regime, and generally strong enforcement regime – whether an infringement case is brought through a civil litigation or through a criminal proceeding. Rights holders have generally consistent case law upon which to rely when asserting their rights through litigation, with overall positive outcomes for copyright owners.

Where the U.S. legal framework is inadequate is in the area of online enforcement. In 1998, with the adoption of the Digital Millennium Copyright Act (DMCA) Section 512 framework for facilitating rights holder and online intermediary cooperation in addressing online piracy, the U.S. was arguably at the forefront of online enforcement. Unfortunately,

given the volume and sophisticated nature of online piracy that exists today, the DMCA framework is no longer an effective regime for the protection of copyrights in the online environment. Online entities, with business models built on facilitating access to or trafficking in infringing content, expertly game the system of notice-and-take down – embroiling rights holders in an all but futile game of whack-a-mole. The Section 512 safe harbour also requires updates to eligibility conditions, to ensure that wholly illegal cyber lockers and other bad actors do not benefit from legal protections that were not intended for them.

Moreover, the United States does not have modern legal tools by which the government can address infringing websites that are located beyond U.S. borders, but which aim infringing content at consumers within its borders. While efforts to address these rogue websites were attempted almost a decade ago, the U.S. still has no expeditious mechanism to prevent subscriber access to a foreign site engaged in facilitating access to or trafficking in infringing content. This is in stark contrast to some 42 jurisdictions around the world that have since adopted a civil or administrative website blocking statute.

**Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?**

In August 2019, AAP, on behalf of seven members, brought a copyright infringement suit against Audible for its unauthorised transcription of audio book narrations, and reproduction/display of the transcribed text. Audible argued that its Captions program was fair use, both because it was designed to have an educational purpose and because only a limited number of words would appear to the reader at any one time. In February 2020, AAP, its publisher members, and Audible settled the suit, restraining Audible from launching captions for the plaintiffs' works. More importantly, the settlement stipulates that, going forward, Audible will obtain permission from any AAP Member in good standing with AAP before moving forward with Audible Captions for their works. As articulated in various news reports, the suit and settlement are important because they involved an early dispute about the intersection of AI and proprietary content.

In early 2020, AAP, with its members, stopped an attempt by the staff in the Office of Science and Technology Policy (OSTP) in the WH to push through, without stakeholder or inter-agency consultation, including many important leaders in the Administration, new policy that would have reduced to zero the existing 12-month embargo within which to make the published results of federally funded research freely available to the public, publications in which publishers manage the peer-review process and otherwise invest. AAP directed its advocacy against this broadside attack on the private sector investments and copyrights of journal publishers to high level administration advisors in the White House, relevant government agencies with jurisdiction over IP and trade issues, and to the U.S. Congress, as well as to the relatively new head of OSTP. AAP continues to lead a collaborative effort to work with OSTP on more productive objectives, such as incentivizing more public-private partnerships to advance the global research enterprise.



## ASSOCIATE MEMBER

**INTERNATIONAL FEDERATION OF SCHOLARLY PUBLISHERS  
CHRISTOPHER HUDSON, BOARD MEMBER**

### What are the priorities of your organisation on copyright policy?

I will speak both for the IFSP and the MGIP, as the priorities of both groups are similar with regard to copyright policy. In both instances, whether for academic and museum publishers operating internationally (IFSP) or visual arts publishers operating internationally (MGIP), our businesses and our missions rely on adherence to the existing copyright laws in effect in our respective members' countries.



### What are the main challenges faced by publishers in your country with regard to copyright policy and law?

While we try to remain vigilant about proposed changes to national copyright laws that might have negative effects, the biggest challenges, in my opinion, have to do with the unpenalised flouting of existing law and the unilateral assertion of new “rules” or “exceptions” together with campaigns to normalise such changes by appeals to public perception.

An additional special concern for the museum publishers within IFSP is that it is not just our own copyrights that are affected by unauthorised (mostly digital) editions, but the copyrights of the artists we work with.

### Can you tell us more about a recent initiative that you consider particularly important to shape copyright policy, law and practice in your country to meet the interests of the publishing industry you represent?

Actually, partly because of the constraints on non-profit publishers with regard to lobbying and the relative lack of clout enjoyed by independent publishers, there are not enough effective initiatives. We badly need more effective campaigns to improve public perception of the importance of content creators' rights.



# COUNTRY REPORTS

# 1. ALBANIA



## 1. Introduction

### Reference

Law No. 35/2016 of March 31, 2016, on Copyright and Related Rights was published in the Official Gazette on April 20, 2016, and entered into force on October 20, 2016. It repeals Law No. 9380 of April 28, 2005, on Copyright and Related Rights.<sup>6</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: December 2, 1993	Accession: May 6, 2005	NO
Implementation	YES	YES	NO

### Membership to Regional IP Organisation

No

## 2. Published works protected by Copyright

Copyright protects original intellectual creations such as literary and artistic works irrespective of their form of expression. Copyright protection covers ebooks and audio books as well.<sup>7</sup>

## 3. Exclusive rights applicable to published works

Rights granted to owners of copyright in published works include the right of reproduction<sup>8</sup>, distribution<sup>9</sup>, communication to the public (including making available)<sup>10</sup>, and rental<sup>11</sup>, as set out in the WIPO Copyright Treaty. Authors have the right to authorise or prohibit public lending<sup>12</sup> and are entitled to remuneration as fair compensation for public lending of their works (collected by collective management organisations), except when works or copies are used by the national library, academic or educational institutions and public libraries. The law also grants the rights of translation and adaptation to the author or any other rightsholder, which could be the publisher, where the rights are transferred.<sup>13</sup> Translations and adaptations are protected as derivative works.

<sup>6</sup> Available on WIPO LEX at [https://www.wipo.int/news/en/wipolex/2016/article\\_0017.html](https://www.wipo.int/news/en/wipolex/2016/article_0017.html)

<sup>7</sup> Article 8

<sup>8</sup> Article 26

<sup>9</sup> Article 27

<sup>10</sup> Article 29

<sup>11</sup> Article 28

<sup>12</sup> Article 32

<sup>13</sup> Article 30

## 4. Transfer of Rights/ Works for hire

Copyright initially vests in the author. Economic rights may be transferred to a third party by contract.

Publishing contracts are governed by special provisions. The author may grant exclusive rights to the publisher through a written contract,<sup>14</sup> subject to a defined consideration, which must take into account the type, volume and scope of the work and its financial success, duration of use, existing agreements between associations of authors and users, and other means of establishing equitable consideration<sup>15</sup>. Notably, the author may transfer the rights of reproduction and distribution to the publisher, granting the publisher the exclusive right to publish the work. The contract may also include the right of translation into other languages.<sup>16</sup>

The term of the contract should be clearly defined and where the contract does not specify the term, then the transfer shall be deemed to be valid for a period of 3 years for exploitation of the work in its original form and 5 years for adaptations or translations. The rights may revert to the author or rights holder at the expiry of the 3- or 5-year term, unless the contract provides otherwise.<sup>17</sup>

## 5. Enforcement

The Act provides for civil remedies through courts and administrative action but does not provide for fines or custodial sentences. Precautionary measures include Anton Pillar orders.

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, Damages, Destruction, Compensation		Article 163-168, 172, 176, 177, 178
Circumvention of TPMS and ERM	Makes it illegal to circumvent technological protection measures		Article 154
Criminal Sanctions			
Precautionary Measures	Anton Pillar orders Preliminary measures to stop existing violation Customs measures		Article 174, 173, 179
Administrative Action	Fines Supervision and inspection		Article 179-183
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>14</sup> Article 45

<sup>15</sup> Article 49

<sup>16</sup> Article 56

<sup>17</sup> Article 48

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The law sets out an exhaustive list of exceptions and limitations based on the three-step test and subject to attribution, including for visually impaired persons, libraries and archives and education.

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Closed system/list	Reproduction for: - Temporary reproduction - personal private use - research - non-commercial use for educational institutions - teaching purposes - Public information - partial reproduction	Specific	Article 70, 71, 72, 74, 78, 80-86
Visually impaired		Reproduction, publication, adaptation, communication to the public (including making available) to produce accessible format copies (braille, electronic format and audio)	Specific	Article 77
Libraries and Archives		Internal use	Specific	Article 75
Education		Non-commercial reproduction for teaching activities	Specific	Article 76, 79
Circumvention of TPMS <sup>18</sup>		To enable uses under exceptions set out in articles 72-78	Specific	Article 87

<sup>18</sup> Kenneth D. Crews *Study On Copyright Limitations And Exceptions For Libraries And Archives: Updated And Revised (2017 Edition)* page 18



## 2. ARGENTINA



### 1. Introduction

#### Reference

The current legal framework on copyright in Argentina is based on Copyright Act No. 11,723 of 1933 on Legal Intellectual Property Regime (as amended up to up to Law No. 26.570 of November 25, 2009), which is fully consistent with section 2312 of the Civil Code.<sup>19</sup>

#### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: May 5, 1967	Ratification: November 19, 1999	Ratification: April 1, 2015
Implementation	YES	Partial <sup>20</sup>	NO

#### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

Literary works are protected regardless of form or mode of expression. Ebooks and audiobooks are protected.<sup>21</sup>

### 3. Exclusive rights

Exclusive rights granted by the Act include both moral and economic rights. The economic rights are reproduction, public exhibition, translation, adaptation and communication to the public.<sup>22</sup> These rights are granted to the author of the work. It is notable that there is no specific provision for the right of making available.

### 4. Transfer of Rights

The initial ownership of rights vests in the author. Economic rights may be transferred or assigned to third parties, either in whole or in part, through contracts or by testamentary disposition.<sup>23</sup> Moral rights are inalienable.

It is important to note that any transfer to a third party has to be recorded in the Argentinian National Intellectual Property Register or “it shall not be valid”.<sup>24</sup> In this regard, while

<sup>19</sup> Available on WIPO LEX at <https://wipolex.wipo.int/en/legislation/details/7088>

<sup>20</sup> No specific provisions for the rights of rental, or specific provisions for the right of making available

<sup>21</sup> Article 1

<sup>22</sup> Article 2

<sup>23</sup> Article 51

<sup>24</sup> Article 53

article 53 sets out the obligation to register the contract as a necessary condition for validity of the transfer of rights and respective conditions, prominent national doctrine and jurisprudence have established that said condition can only apply to determine enforceability against third parties, as the contract remains binding between the parties absent a registration.

## 5. Enforcement

The law provides for enforcement of rights through the judiciary by civil and criminal actions, as well as for precautionary measures. However, the Act does not provide for remedies against circumvention of technological protection measures and does not set out a special regime for online infringement or ISP liability.<sup>25</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, Destruction,		Article 72bis
Circumvention of TPMS and ERMI		✓	
Criminal Sanctions	Fines and custodial sentences or both		Article 72bis, 73, 74
Precautionary Measures	Suspension of performances, seizure of denounced works		Article 79
Administrative Action	Fines		Article 83
Special Regime for online infringement		✓	
ISP Liability		✓	

## 6. Exceptions and Limitations Applicable to Published Works

The law provides for general exceptions and limitations, as well as provisions for visually impaired persons and education. There are no exceptions for circumvention of technological protection measures, nor for libraries and archives. Exceptions and limitations are subject to the acknowledgement of the author as such.<sup>26</sup>

<sup>25</sup> Available on WIPO LEX at <https://wipo.lex.wipo.int/en/legislation/details/7088>

<sup>26</sup> *Ibid*



Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Closed system/list	Reproduction for transmission of news reports	General	Article 28
Visually impaired		Reproduction and distribution of accessible format copies	General	Article 36
Libraries and Archives		No exceptions		
Education		Teaching activities	General	Article 36
Circumvention of TPMS		No exceptions		

## 3. ARMENIA



### 1. Introduction

#### Reference

Law of the Republic of Armenia of June 15, 2006, on Copyright and Related Rights (as amended up to September 30, 2013).<sup>27</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: July 19, 2000	Accession: December 6, 2004	NO
Implementation	YES	YES	NO

### Membership to Regional IP Organisation

Armenia is a member of the Eurasian Patent Office (EAPO).

### 2. Published works protected by Copyright

The definition of works protected by copyright includes literary, scientific or artistic works. The definition of works protected by copyright covers both ebooks and audio books as it covers written or objective forms, including permanent or temporary electronic forms, either published or unpublished.<sup>28</sup>

### 3. Exclusive rights

The exclusive rights granted include both moral and economic rights.<sup>29</sup>

The following exclusive economic rights are granted: reproduction, distribution, rental, lending, translation, transformation, communication to the public (any transmission of the work to the public), public performance.<sup>30</sup> The provisions were reviewed to implement exclusive rights as set out in the WIPO Copyright Treaty, including the making available right.

### 4. Transfer of Rights and Works for Hire<sup>31</sup>

Economic rights may be transferred by contract or through testamentary disposition. The author is presumed to be the person who creates the work, and copyrights vest in the author. Moral rights are inalienable and may not be transferred through inheritance,

<sup>27</sup> Accessed on WIPO LEX at <https://wipolex.wipo.int/en/text/507515>

<sup>28</sup> Article 3

<sup>29</sup> Article 11, 12

<sup>30</sup> Articles 13-21

<sup>31</sup> Article 38-41

although economic rights are. Regarding rights to authorise the use of a work, permission is dependent upon a contract, and may be granted on an exclusive (transfer of rights) or non-exclusive basis (licence agreement, with the author retaining the exclusive rights). The contract shall establish the rights, modalities and duration of the authorisation granted, and other relevant conditions.

## 5. Enforcement

The law provides for judicial enforcement through civil and administrative actions. There are no special remedies for online infringement of rights or for ISP liability.<sup>32</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Recognition of the rights Compensation & Damages Seizure and Destruction of illegal copies and equipment used to produce them Publication of judgment Prohibit importation of infringing copies		Article 66
Circumvention of TPMS and ERMI	Similar to the civil remedies		Article 67-68
Criminal Sanctions		✓	
Precautionary Measures	Customs/prohibition of importation of illegal copies, Seizure of illegal copies and equipment used to produce them		Article 69
Administrative Action		✓	
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>32</sup> Law of the Republic of Armenia of June 15, 2006, on Copyright and Related Rights as amended on September 30, 2013. <https://wipo.int/en/text/507515>

## 6. Exceptions and Limitations Applicable to Published Works

The Law sets out exceptions, which are subject to the acknowledgement of the author as such and to the three-step test.

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive list Based on the three-step test and attribution	Quotation excerpts for scientific, research, debate, critical and information purposes Reproduction for purposes of reporting news	General	Article 22-23
Visually impaired	Exhaustive list Based on the three-step test and attribution	Braille and other accessible format copies of works that have been made publicly available	Specific	Article 22, 2, (h)
Libraries and Archives	Exhaustive list Based on the three-step test and attribution	Reproduction: for the purpose of restoring or substituting the lost or damaged copies, when it is impossible to obtain a copy in another way (can also be used by educational and cultural institutions); for study and research purposes, in which case one single copy can be supplied to an individual user.	Specific	Article 24(3)
Education	Exhaustive list Based on the three-step test and attribution	Use of legally published literary and artistic works and excerpts for educational purposes in educational publications. Reproduction: one single copy can be delivered to each individual user by educational institutions for classroom purposes.	Specific	Article 22, 2, (b) Article 24, 3, (b)
Circumvention of TPMS		No exceptions to circumvention of TPMS		

## 4. AUSTRALIA



### 1. Introduction

#### Reference

Australia's Copyright Act No. 63 of 1968 as amended in June 2018 has previously undergone several changes in the recent past. The amendments took into account the most recent developments in the copyright sector at both local and international level including strengthening of enforcement provisions to deal with online piracy and extension of safe harbour protection.<sup>33</sup> These amendments came into force on December 11, 2018.<sup>34</sup> The amendments in relation to term of protection for unpublished works made by the Copyright Amendment (Disabilities and other Measures) Act 2017 came into effect in January 2019.

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Declaration of Continued application: April 14, 1928	Accession: 26 April, 2007	Ratification: December 10, 2015
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

Membership to Regional IP Organisation

Australia is a member of the APEC Intellectual Property Experts Rights Group (IPEG)

### 2. Published works protected by Copyright

The Act defines a literary work to include table or compilations, expressed in words, figures or symbols as well as a computer programme or compilation of the same. Copyright protection applies automatically as soon as a work is recorded in a material form, which can be an audio recording.<sup>35</sup> There is also a separate copyright for the typographical arrangement in a 'published edition': see section 92 of the Act.<sup>36</sup> Audio books are protected by virtue of Section 22(2) of the Act.

### 3. Exclusive rights applicable to published works

The Act provides for exclusive moral and economic rights. The economic rights protected in the case of literary works are the rights to reproduction in any material form, publication, public performance, communication to the public, and adaptation.<sup>37</sup>

<sup>33</sup> The copyright Amendment (Online infringement) Act 2018 came into effect in December 2018.

<sup>34</sup> Available on WIPO LEX at <https://wipo.lex.wipo.int/en/text/501165>. n

<sup>35</sup> Section 22(2)

<sup>36</sup> Section 10

<sup>37</sup> Section 31

It is notable that the rental right applies to audio recordings and computer programs and not to printed books, but the right of communication includes the right of making available to the public. The Act also provides unwaivable moral rights to authors.

## 4. Transfer of Rights

The publisher of an edition of a work is considered to the owner of the copyright in the edition. In the case of works made by employees as part of their employment, the ownership of the rights vests in the employer, but employees of newspaper and magazine publishers can retain some limited rights for photocopying printed publications and inclusion of articles in books.<sup>38</sup> Independent contractors retain the ownership of the works but may transfer the same to the contractor through a contract. The owner of copyright may be the publisher.<sup>39</sup>

## 5. Enforcement

The Act provides for enforcement through civil and criminal actions through the courts and these are applicable in the case of infringement of as well as circumvention of technological protection measures. It also provides for a special regime for online infringement of copyright and safe harbours for internet service providers. This is one of the most comprehensive provisions in relation to tackling online infringement.

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Damages, Injunctions		Part V Division 2, Section 115, Section 116AAA
Circumvention of TPMS and ERMI	Injunction, Damages, Destruction, Account of Profits		Part V, Division 2AA, Section 116AQ, 116D
Criminal Sanctions	Fines and Custodial sentences or both		
Precautionary Measures		✓	
Administrative Action		✓	
Special Regime for online infringement	Injunctions against carriage service providing access to online locations outside Australia		Section 115A
ISP Liability	Safe Harbours In relation to Copyright material: Removal or disable access, Fines		Part V, Division 2AA, Section 116AG-116AJ

<sup>38</sup> Section 35

<sup>39</sup> Section 30

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)<sup>40</sup>

The Act provides for general exceptions and limitations as well as specific exceptions and limitations for sound recordings, visually impaired persons, circumvention of technological protection measures, libraries and archives and educational institutions.

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing	For purpose of research and study Criticism or review Parody and satire Reporting News Reproduction for Judicial proceedings Temporary reproductions in the course of communication News Works shared for health purposes	General       Specific	Part III, Division 3, Section 40-43C Part IV, Division 6, Section 103A–103C      Section 44B
Visually impaired	List	Fair dealing for access by a person with a disability Fair dealing to assist a person with a disability	Specific	Section 113E Section 113F
Libraries and Archives	Exhaustive List	Copying for Parliamentary libraries Communication of works by Libraries and archives Reproduction for inclusion in a collection Preservation of published and unpublished works Use for ‘certain purposes’	Specific	Part III, Division 5, Section 48A Section 49 49-53 Part 4A, section 113G–113K Section 200AB
Education		Inclusion of works in places of education Performance for educational instruction Use for ‘certain purposes’ Statutory licence Use in an examination	Specific	Part III Division 3, Section 44 Section 28 Section 200AB Part 4A, Division 4
Circumvention of TPMS	Exhaustive List	Circumvention for educational purposes, Research	Specific	Part V, Division 2A, Section 116AO-116AQ

<sup>40</sup> Copyright Act of 1968 consolidated as of January 1, 2019 <https://wipo.lex.wipo.int/en/text/501165>



## 5. BANGLADESH



### 1. Introduction

#### Reference

The Copyright Act, 2000 repealed the Copyright Ordinance, 1962 and was amended by the Copyright (Amendment) Act 2005 on May 18, 2005.<sup>41</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: February 4, 1999	NO	NO
Implementation	YES	NO	NO

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The Act protects original literary works. Ebooks and audio books are thus covered by copyright.<sup>42</sup>

### 3. Exclusive rights applicable to published works

The Act provides for both moral and economic rights. The economic rights include reproduction, public performance, communication to the public, translation and adaptation.<sup>43</sup> There is no specific provision for the rental right as set out in the WCT.

### 4. Transfer of Rights and Works for Hire

Under the Act, the author of the work is deemed to be the owner of the work, save for certain instances. An example is the case of a journalist employed by a newspaper where the employer will be deemed to the owner unless there is an agreement to the contrary.<sup>44</sup>

The rights may be transferred by operation of the law or by testamentary disposition.<sup>45</sup> Where rights are assigned and the assignee does not exploit them for more than one year, the assignment may be revoked, and the rights will revert to the person who assigned the rights.<sup>46</sup> For instance, if the rights are transferred to a publisher, failure to reproduce and

<sup>41</sup> <https://wipolex.wipo.int/en/legislation/details/11172>

<sup>42</sup> Section 15

<sup>43</sup> Section 14

<sup>44</sup> Section 17

<sup>45</sup> Section 21

<sup>46</sup> *ibid*

distribute the works will result in reversion of the rights to the author.<sup>47</sup> The contract also has to specify the term of the assignment, lacking this, the rights will revert to the author or the rights holder.<sup>48</sup>

## 5. Enforcement

The law makes provisions for enforcement through civil and criminal measures as well as administrative action. There are no provisions for precautionary measures, circumvention of technological protection measures nor a special regime for online infringement.<sup>49</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, Damages		Section 76
Circumvention of TPMS and ERM		✓	
Criminal Sanctions	Fines and custodial sentences or both		Section 81 – 91
Precautionary Measures		✓	
Administrative Action	Search and Seizure, Ban importation of infringing items by registrar of copyright		Section 92
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>47</sup> Hossain <http://www.bdresearchpublications.com/journal/> 104

<sup>48</sup> *Ibid*

<sup>49</sup> The Copyright Act, 2000 as amended by the Copyright (Amendment) Act 2005 on May 18, 2005, <https://wipo.lex.wipo.int/en/legislation/details/11172>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The law provides for general exceptions and limitations under fair use as well as specific exceptions for libraries, archives and educational institutions. It does not have exceptions for circumvention of technological protection measures nor for visually impaired persons.

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing/Fair use	Fair use for private study or private use including research	General	Section 72 (1) (2)
Visually impaired		No exceptions for visually impaired		
Libraries and Archives		Research or private study	General	Section 72 (15) (16)
Education		Research or private study	General	Section 72 (12) (15)
Circumvention of TPMS		No exceptions to circumvention of TPMS		

## 6. BELGIUM



### 1. Introduction

#### Reference

Title 5 of Book XI of the Belgian Economic Code deals with copyright and neighbouring rights (*“Droit d’auteur et droits voisins”* - Articles XI.164 to XI.293).<sup>50</sup>

#### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Ratification: September 5, 1887	Ratification: May 30, 2006	Ratification by EU October 1, 2018 <sup>51</sup>
Implementation	YES	YES	YES

#### Membership to Regional IP Organisation

European Union Intellectual Property Office and European Patent Office.

### 2. Published works protected by Copyright

Copyright law protects literary works (writings of any kind, such as lessons, lectures, speeches, sermons) in any form. The may be interpreted to include ebooks and audio books.<sup>52</sup>

### 3. Exclusive rights applicable to published works

The rights granted include moral<sup>53</sup> and economic rights.<sup>54</sup> The economic rights granted are reproduction, adaptation and translation, lending/rental, communication to the public, including making available, rental and distribution by way of sale or other means.

### 4. Transfer of Rights and Works for Hire

The economic rights may be assigned in part or in whole.<sup>55</sup> The initial ownership vests in the author. When works are created under commission or under employment, the owner of the copyright is the individual author. Only in the case of software programs created under employment, there is a presumption of transfer of ownership to the employer and the work will be deemed to belong to the employer.<sup>56</sup>

<sup>50</sup> <https://wipolex.wipo.int/en/legislation/results?countryOrgs=BE&subjectMatters=11> (Google translate not clear.)

<sup>51</sup> Ratification of the Marrakesh VIP Treaty by the European Union facilitates access to published works by persons with print disabilities in the EU and authorized entities to participate in the exchange of books and other print material in accessible formats with third countries that are also parties to the treaty.

<sup>52</sup> Article XI. 172

<sup>53</sup> Article XI.165 (2)

<sup>54</sup> Article XI. 165 (1)

<sup>55</sup> Article XI.167 CEL

<sup>56</sup> Article XI 296 of the Economic Law Code

## 5. Enforcement<sup>57</sup>

The Law provides for civil remedies and criminal sanctions, and sets out a special regime for online infringement and ISP liability.

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Damages, Injunctions, destruction, recall of infringing items		Article XI 335
Circumvention of TPMS and ERMI			Art. XVII 15 § 4 <sup>58</sup>
Criminal Sanctions	Six levels of sanctions, including fines and imprisonment		Art. XV 103-113
Precautionary Measures	Confiscation		Article XI 334
Administrative Action			
Special Regime for online infringement			Art. XVII 14 § 4
ISP Liability			Art. XVII 14 § 4

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)<sup>59</sup>

The law provides for general exceptions and limitations and also has specific provisions for the visually impaired, libraries and archives, educational institutions as well as circumvention of technological protection measures. The exceptions and limitations are subject to the acknowledgement of the author as such.

<sup>57</sup> <https://wipolex.wipo.int/en/legislation/results?countryOrgs=BE&subjectMatters=11> (Google translate not clear.)

<sup>58</sup> This procedure has yet to be applied since it was enacted.

<sup>59</sup> <https://wipolex.wipo.int/en/legislation/results?countryOrgs=BE&subjectMatters=11> (Google translate not clear.)

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive List	Reproduction and communication for <ul style="list-style-type: none"> <li>- temporary</li> <li>- private use</li> <li>- information including current affairs and news</li> </ul> Communication to the public including making available for research or private study <sup>60</sup> Quotations from lawfully published works Public Statements in Parliament, public trials or political events may be copied and communicated freely	General	Art. 189 (3); XI.190-3,5,9 XI.190-1,XI.189-1, XI,172(1)  Art. XI. 189 (3); Art. XI.190-3,5,9 Art. XI.190-1,XI.189-1,  Art. XI,172(1)
Visually impaired	Exhaustive List	Making available copies of orphan works by public libraries, educational institutions, museums, archives, audiovisual heritage institutions and public broadcaster Reproduction in accessible format copies and communication by visually impaired persons and authorised entities. Making available copies of orphan works	General	Art. XI.190
Libraries and Archives	Exhaustive list	Reproduction for <ul style="list-style-type: none"> <li>-non- commercial purposes</li> <li>-educational research purposes</li> <li>-preservation</li> </ul>	Specific	Art. XI.190-12-13, 192/1
Education	Exhaustive list	Reproduction of quotations for teaching or in the framework of scientific research Reproduction and communication for illustration for purposes of teaching	Specific	Art. XI.191/1:1-5
Circumvention of TPMS		Temporary reproduction which is transient and essential part of a technological process	Specific	Art. XI 189(3)

<sup>60</sup> Communication is permitted via special terminals in the buildings of public libraries, educational or scientific institutions, museums or archives to individual members of the public for research or private study

## 7. BOSNIA AND HERZEGOVINA



### 1. Introduction

#### Reference

Copyright and Related Rights Law adopted on July 1, 2010.<sup>61</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Declaration of Continued Application: June 2, 1993	Accession: August 25, 2009	Signature: June 28, 2013 NO
Implementation	YES	YES	NO

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The subject matter covered includes literary and scientific works. Literary works are written texts regardless of the mode and form of expression thus covering both ebooks and audio books.<sup>62</sup>

### 3. Exclusive rights

The author is granted moral and economic rights, with the former being inalienable. The economic rights granted to the author include the right of reproduction,<sup>63</sup> distribution,<sup>64</sup> rental<sup>65</sup>, communication to the public, public performance,<sup>66</sup> public transmission and the right of transformation which includes the rights of adaptation and translation.<sup>67</sup> The author also has the right to remuneration for public lending.<sup>68</sup>

In addition to the rights granted under the Berne Convention, the law sets out the rights granted under the WCT, namely the rental right, the right of distribution and the right of making available.

<sup>61</sup> <https://wipolex.wipo.int/en/legislation/details/5932>

<sup>62</sup> Article 4

<sup>63</sup> Article 21

<sup>64</sup> Article 22

<sup>65</sup> Article 23

<sup>66</sup> Article 24-32

<sup>67</sup> Article 33

<sup>68</sup> Article 34



## 4. Transfer of Rights and Works for Hire

Transfer of rights to a third party may be in part or in whole and may be exclusive or non-exclusive. The scope of the transfer has to be clear. The author may transfer the right to reproduce and distribute his work to the publisher through a publishing contract.<sup>69</sup>

## 5. Enforcement

In addition to criminal and civil actions, the law allows for both administrative and provisional measures to deal with infringement of rights.<sup>70</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions Withdrawal of Infringing works Seizure Destruction Damages Fines Delivery up Publication of judgement		Article 156-159,162
Circumvention of TPMS and ERMI	Fines Seizure of infringing works		Article 170
Criminal Sanctions	Fines Seizure of infringing works Prohibition of business activities		Article 170 Article 171
Precautionary Measures	Anton Pillar Order Provisional measures		Article 161 Article 160
Administrative Action	Deposit of copyright works Customs measures Ex- officio procedures Inspectional control Seizure by Competent Market inspector Prohibition		Article 164 Article 166  Article 173, 174
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>69</sup> Article 85

<sup>70</sup> <https://wipo.lex.wipo.int/en/legislation/details/5932>

## 6. Exceptions and Limitations Applicable to Published Works

The law provides for general exceptions and limitations as well as exceptions for visually impaired persons, libraries and archives, and circumvention of technological protection measures. The author has to be acknowledged as such.<sup>71</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive list	Temporary reproduction Public information Private uses Quotations Free transformation for purposes of parody and caricature Works permanently located in public places Official procedures	General	Article 40 Article 44 Article 46 Article 47 Article 50 Article 52 Article 53
Visually impaired		Accessible format copies for disabled persons where such format is not available	General	Article 42
Libraries and Archives		Reproduction for internal use and non-economic purposes	General	Article 46
Education		Reproduction of teaching material for teaching purposes		Article 41 Article 45
Circumvention of TPMS		Circumvention is authorised in the interest of public safety or any other official procedure		Article 153

<sup>71</sup> <https://wipo.lex.wipo.int/en/legislation/details/5932>

## 8. BRAZIL



### 1. Introduction

#### Reference

Law No. 9610 of February 19, 1998, on Copyright and Neighbouring Rights as amended by Law No.12.853 of August 14, 2013.<sup>72</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: February 6, 1922	NO	Ratification: December 11, 2015
Implementation	YES	NO	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

According to the copyright law, creative works, whatever their mode of expression, whether tangible or intangible, shall be protected and these include literary and artistic works. Ebooks and audio books are protected.<sup>73</sup>

### 3. Exclusive rights applicable to published works

The Act recognises the author as the natural person who created the work. Legal entities such as publishing companies may have copyright conferred to them and they would be recognised as copyright owners. The author has the exclusive right to derive benefit from the work (commercial exploitation) and is granted with moral and economic rights. Economic rights include the right of reproduction, publication, adaptation, communication to the public, translation and distribution.<sup>74</sup>

### 4. Transfer of Rights and Works for Hire

The author may assign the economic rights in whole or in part to a third party via contracts, including publishing contracts.

<sup>72</sup> <https://wipo.lex.wipo.int/en/legislation/details/17474>

<sup>73</sup> Section 7

<sup>74</sup> Section 28

## 5. Enforcement

The law provides for both civil remedies and criminal sanctions. There are no specific provisions for online infringement or administrative measures.

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Seizure Damages, Destruction Forfeiture Account for Profits		Article 101, 102 106, 107
Circumvention of TPMS and ERMI	Damages, Seizure and forfeiture Account for profits		Article 107
Criminal Sanctions	Fines Obligation to destroy all unlawful copies as well as material used to produce infringing copies Imprisonment for up to 4 years		Article 101, 105, 106 Article 184 and its paragraphs Brazilian Penal Code
Precautionary Measures		✓	
Administrative Action		✓	
Special Regime for online infringement		✓	
ISP Liability		✓	

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The exceptions and limitations are general and do not include exceptions to the circumvention of technological protection measures. The exceptions are subject to the acknowledgement of the author as such.<sup>75</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Closed system/ Exhaustive list	Reproduction - for information and news - speeches given in public meetings - For accessible format copy - short excerpts for private use - quotation - use of works in commercial places for purposes of demonstration	General	Article 46
Visually impaired		Accessible format copies	General	Article 46
Libraries and Archives		No specific exceptions for Libraries		
Education		Reproduction of notes taken in the course of lessons by the persons for whom they are intended, for purposes of study, criticism or debate	General	Article 46
Circumvention of TPMS		Allows for circumvention of TPMS as permitted under Articles 46, 47 and 48		Article 107

<sup>75</sup> <https://wipolex.wipo.int/en/legislation/details/17474>

## 9. CANADA



### 1. Introduction

#### Reference

The Governing law in Canada is the Canada Copyright Act 1985, the Copyright Modernisation Act which came into force on June 29, 2012 and includes the latest amendments as of June 17, 2019.<sup>76</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Declaration of Continued Application: April 10, 1928	Ratification: May 13, 2014	Accession: June 30, 2016
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

Literary works are protected by copyright, including books and ebooks. Audio books would be protected as sound recordings.

### 3. Exclusive rights applicable to published works

The Act provides for both economic and moral rights. Economic rights include reproduction, distribution, lending, rental, communication to the public and making available, translation and adaptation.<sup>77</sup> The Act fully implements the rights granted under the WCT.

### 4. Transfer of Rights and Works for Hire

Rights initially vest in the author, who can transfer the economic rights (in part or in whole) to the publisher, either through assignments or licences.

Regarding works created under employment and works for hire, the author shall be recognised even when the copyright belongs to the employer or the person who commissioned the author.<sup>78</sup>

<sup>76</sup> <https://wipolex.wipo.int/en/legislation/details/19112>

<sup>77</sup> Section 3 (1)

<sup>78</sup> Assignment of right of action Section 13(6) Assignments and licences Section 13(4)

## 5. Enforcement

Enforcement of rights is made through courts. The law sets out criminal sanctions and civil remedies for infringement. In the case of online infringement, Canada has a “notice and notice” system whereby the internet service provider is required, once the owner has made an allegation on infringement, to notify the users of the alleged infringement.<sup>79</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunction, Damages, Destruction Right of Recovery (for failure to pay royalties) Detention of copies		Section 34 – 40  Section 88(1)  Section 44
Circumvention of TPMS and ERMI	Entitled to all civil remedies		Section 41.11, 41.12, 41.13, 41.14, 41.15 Section 42.3.1
Criminal Sanctions	Fines and custodial sentences or both Destruction Delivery up of infringing copies		Section 42, 43
Precautionary Measures		✓	
Administrative Action	Prohibition and retention by customs officer		Section 44
Special Regime for online infringement	Owner may send notice to ISP <sup>80</sup> Injunctive relief Statutory damages		Section 41.25 Section 41.26
ISP Liability	Provision of safe harbours		Section 31.1

<sup>79</sup> <https://wipo.lex.wipo.int/en/legislation/details/19112>

<sup>80</sup> It is notable that this is a “notice to notice” regime where on receipt of a complaint, the ISP has the obligation to notify the infringer but no obligation to take down the infringing content



## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The law provides for general exceptions and limitations under fair dealing, and for specific uses by libraries and archives, educational institutions, and circumvention of technological protection measures. The exceptions are subject to the acknowledgement of the author as such.

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing	Reproduction for; - Private use - Research, private study - Criticism and review - Parody and satire - News reporting		Section 29.1, 29.2.1, 29.2.2, 29.2.3, 29.2.4 29.3
Visually impaired	Exhaustive List	Accessible format copies	General	Section 32
Libraries and Archives	Exhaustive List	Reproduction for: - non- commercial purposes -educational research purposes -preservation or replacement of damaged or destroyed copies	Specific	Section 30.1 – 30.21 Section 30.4 Section 30.5
Education	Exhaustive List	Reproduction for instruction, examinations, commercially available work, Performances, News and commentary, broadcast, Literary collections	Specific	Section 29.4 - 30
Circumvention of TPMS	Exhaustive List	For purposes of Law enforcement and national security, Interoperability of computer programs, Encryption research Access by persons with visual impairment		Section 41.11 – 41.19

## 10. CHILE



### 1. Introduction

#### Reference

The law governing copyright is Law No. 17.336 on Intellectual Property as amended up to Law No. 21045 of November 3, 2017. (*Ley N° 17.336 sobre la Propiedad Intelectual (modificada por la Ley N° 21045 del 3 de noviembre de 2017)*)<sup>81</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: April 9, 1970	Ratification: April 11, 2001	Ratification: May 10, 2016
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The law protects literary works such as books, pamphlets, articles and writings in whatever form of expression which includes e books and audio books.<sup>82</sup>

### 3. Exclusive rights

The Act provides for both moral and economic rights. The economic rights comprise reproduction, communication to the public, distribution by way of sale or other transfer of ownership, adaptation and translation.<sup>83</sup>

### 4. Transfer of Rights and Works for Hire

The moral rights are inalienable. The economic rights may be transferred in part or in whole to third parties through licensing and assignment.<sup>84</sup> Any total or partial transfer has to be made in writing and recorded with the Registrar within 60 days of execution of the contract.<sup>85</sup> The rights may thus be granted by the author to a publisher to exploit and the contract will be for the duration of time indicated in the contract.

<sup>81</sup> <https://wipolex.wipo.int/en/legislation/details/18880>

<sup>82</sup> Articles 1 and 3

<sup>83</sup> Article 18

<sup>84</sup> Article 17

<sup>85</sup> Article 73

## 5. Enforcement

The law allows for enforcement through the courts and sets out civil remedies and criminal sanctions. The law does not contain specific provisions in relation to circumvention of technological protection measures and removal of electronic rights management systems or precautionary measures to stop the infringement. However, it does have provisions for ISP liability and a specific regime for online infringement.<sup>86</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Damages based on the amount for which legal copies would be sold		Article 85A
Circumvention of TPMS and ERMI		✓	
Criminal Sanctions	Fines and custodial sentences or both		Article 79-85
Precautionary Measures	Destruction, Seizure of infringing copies and equipment used to produce them, Duties to provide information on infringement and infringers		Article 85D, 85I
Administrative Action		✓	
Special Regime for online infringement	Site blocking, content removal can be ordered by courts of law		Articles 85 O to 85R
ISP Liability	ISP Liability, Take Down procedures		Article 85L to 85U

<sup>86</sup> <https://wipolex.wipo.int/en/legislation/details/18880>

## 6. Exceptions and Limitations Applicable to Published Works

The Act provides for general exceptions and limitations as well as specific exceptions and limitations for use by libraries and archives, visually impaired persons, educational institutions and circumvention of technological protection measures by legitimate users. The use of a work under an exception or limitation is subject to acknowledgement of the author as such.<sup>87</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive list	Quotation, criticism, illustration	General	Article 71 B
Visually impaired		Reproduction, adaptation, distribution and communication to the public in accessible format copies by visually impaired persons and authorised entities		Article 71C
Libraries and Archives		Reproduction for: - non- commercial purposes - research purposes -preservation, or replacement of damaged or destroyed copies of works that are not commercially available		Article 71I, 71J, 71K, 71L
Education		Reproduction for criticism, illustration, teaching and research; Reproduction and translation of small excerpts for illustration of teaching, when said excerpts are not available in textbooks		Article 71B, 71D, 71M
Circumvention of TPMS		No exceptions to circumvention of TPMS		

<sup>87</sup> *Ibid*

# 11. CHINA



## 1. Introduction

### Reference

Copyright law in China is governed by the:<sup>88</sup>

- Copyright Law of the People's Republic of China 2010) as amended up to the Decision of February 26, 2010, by the Standing Committee of the National People's Congress on Amending the Copyright Law of the People's Republic of China)
- Regulations for the Protection of Rights of Communication through Information Networks (2006)
- Regulations for Implementation of the Copyright Law of the People's Republic of China;<sup>89</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: July 10, 1992	Accession: March 9, 2007	NO
Implementation	YES	YES	NO

### Membership to Regional IP Organisation

No

## 2. Published works protected by Copyright

The Act defines copyright protected works to include written works, which covers ebooks and audio books.<sup>90</sup>

## 3. Exclusive rights

The law sets out moral and economic rights. The exclusive rights include the right of reproduction, performance, projection, communication through information networks, cinematISATION, broadcasting, exhibition, distribution, rental adaptation, translation, and annotation.<sup>91</sup> In the case of works created through adaptation, translation or annotation, the person who translated, adapted or arranged the work will be deemed the author and shall enjoy the above-mentioned rights in relation to the works created.<sup>92</sup>

<sup>88</sup> <https://wipolex.wipo.int/en/text/186569>

<sup>89</sup> the Copyright Law is under currently under review for major amendments this year and the draft as of the date of this publication is open for a second round of public comments

<sup>90</sup> Article 3

<sup>91</sup> Article 10

<sup>92</sup> Article 12

## 4. Transfer of Rights and Works for Hire

Ownership of copyright, unless otherwise provided for by the law, shall belong to the author. The author may transfer the economic rights to a third party in whole or in part through assignment, contract or by testamentary disposition. In the instance where the work is created under employment, the employer shall be deemed to be the author of the work, unless otherwise provided for under the copyright law. Where works are commissioned, the person commissioned shall be presumed to be the copyright owner, unless otherwise agreed in the contract.<sup>93</sup> For a work created under employment, the employer shall be deemed to own the rights the work.<sup>94</sup>

## 5. Enforcement

The National Copyright Administration of China is responsible for the administration of copyright nationwide. Other enforcement authorities include the Judiciary and the General Administration on Customs.<sup>95</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Damages, compensation Appeal of mediation award Appeal on arbitration award		Article 46 Article 48 Article 49 Article 50 Article 55
Circumvention of TPMS and ERMI	✓		
Criminal Sanctions	✓		
Precautionary Measures		✓	
Administrative Action	Mediation Confiscation of unlawful income and fines by copyright administration department		Article 48, 49 Article 46, Article 48, 49, 50
Special Regime for online infringement <sup>96</sup>			Regulations for the Protection of Communication Rights through Information Networks (2006 Regulations)
ISP Liability	Safe Harbours Take down Provisions		Regulations for the Protection of Communication Rights through Information Networks (2006 Regulations)

<sup>93</sup> Section 17

<sup>94</sup> Section 16

<sup>95</sup> <https://wipo.lex.wipo.int/en/text/186569>

<sup>96</sup> The E-Commerce Law (effective Jan 2019)

The other two drafts released by the Supreme People's Court worth noticing: Supreme People's Court's Reply on the Application of Laws in Disputes related to Internet Intellectual Property Infringement (draft for comment); Guiding Opinions of the Supreme People's Court on the Trial of Intellectual Property Disputes Involving E-Commerce Platform (draft for comment)

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive list	Reproduction for: - Private research, study or self-entertainment - Quotation for comment or demonstration - Use for purposes of reporting current affairs	General	Article 22
Visually impaired	List	Braille and other transliterated formats	General	Article 22 (12)
Libraries and Archives	List	Reproduction for the purposes of display, or preservation of a copy, of the work	General	Article 22 (8)
Education	List	For the user's own private study research Reproduction or translation for use in research or educational purpose	General	Article 22 (1) Article 22(6) Article 23
Circumvention of TPMS		Prohibition on circumvention is applicable save where the law or regulations provide otherwise. Explicit provisions relate to literary works in the case of classroom teaching or scientific research of the school and the visually impaired. <sup>97</sup>		Art. 48(6), (7); Art. 12 Network Reg.

<sup>97</sup> Kenneth D. Crews Study on Copyright Limitations and Exceptions for Libraries and Archives: Updated and Revised (2017 Edition) [https://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=389654](https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=389654) Page 106



## 12. COLOMBIA



### 1. Introduction

#### Reference

Copyright Law in Colombia is governed by:<sup>98</sup>

- Decision 351 of 1993 of the Andean Community.
- Law No. 23 of January 28, 1982, on Copyright (as amended up to Law No. 1955 of May 25, 2019).
- Law No. 1915 of July 12, 2018, on Amendments to Law No. 23 of 1982 and Establishing Other Provisions on Copyright and Related Rights.

#### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: December 4, 1987	Ratification: November 29, 2000	NO
Implementation	YES	YES	NO

#### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The law protects literary works in whatever form or mode of expressions. Ebooks and audio books are protected.<sup>99</sup>

### 3. Exclusive rights

The Act grants exclusive moral and economic rights. The economic rights include reproduction, communication to the public, distribution, rental, importation, and adaptation.<sup>100</sup> The right of making available is included in the right of communication to the public, which refers to communication by wire or wireless means and where the public may access it at their own convenience.<sup>101</sup>

### 4. Transfer of Rights

The ownership of copyright vests in the author. The author may transfer or licence the rights. The economic rights may be transferred in part or in whole by operation of the law of testamentary disposition.<sup>102</sup>

<sup>98</sup> <https://wipolex.wipo.int/en/legislation/details/18880>

<sup>99</sup> Article 2

<sup>100</sup> Article 12

<sup>101</sup> *Ibid*

<sup>102</sup> Article 182

## 5. Enforcement

The law provides for enforcement through civil and criminal sanctions as well as precautionary measures. There are no specific provisions for online infringement or ISP liability.<sup>103</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Damages, Seizure		Article 236, 238 Article 57 of Decision 351 of Andean Community
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		Article 33 of Amendment (Law 1915 of 2018)
Criminal Sanctions	Fines and custodial sentences or both		Article 270, 271, 272 Law 599 of 2000 (Penal Code)
Precautionary Measures	Preventive seizure		Article 244 Article 56 of Decision 351 of Andean Community
Administrative Action		✓	
Special Regime for online infringement <sup>96</sup>		✓	
ISP Liability		✓	

<sup>103</sup> <https://wipo.lex.wipo.int/en/legislation/details/18880>

## 6. Exceptions and Limitations Applicable to Published Works

The Act provides for general exceptions and limitations, as well as specific provisions for libraries and archives, educational institutions, visually impaired persons and circumvention of technological protection measures.

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive list	Temporary reproduction Reprographic reproduction for: - Citation - Reporting current events - Personal use Judicial and administrative purposes	General	Article 31,33, 34, 35 37 Article 22 of Decision 351 of Andean Community
Visually impaired		Production of accessible format copies		Article 12 of Law 1680/2013
Libraries and Archives		Reproduction for: - non- commercial purposes -educational research purposes -preservation, or replacement of damaged or destroyed copies -interlibrary, inter-archival exchange		Article 38 Article 22 c) of Decision 351 of Andean Community
Education		Reproduction for instructional purposes for teaching		Article 32, 40 Article 22 b) of Decision 351 of Andean Community
Circumvention of TPMS	List	Circumvention is authorised for certain purposes (e.g. activities in good faith, reverse engineering, non- profit use, certain uses by libraries, archives and educational institutions, security or intelligence purposes when carried out by employees, agents or contractors of the government)	Specific	Article 13 of Amendment (Law 1915 of 2018),

## 13. DENMARK



### 1. Introduction

#### Reference

Copyright law is governed by the Consolidated Act on Copyright (Consolidated Act No. 1144 of October 23, 2014).<sup>104</sup> The Act takes into account the various EU Directives on Copyright and related rights.

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: June 13, 1903	Ratification: December 14, 2009	Ratification by the EU on October 1 2018
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

European Intellectual Property Office

### 2. Published works protected by Copyright

The Act provides for the protection of literary and artistic works in any manner or form of expression, thus covering ebooks and audio books.<sup>105</sup>

### 3. Exclusive rights

The Act provides for both economic and moral rights. The exclusive rights granted include the rights of reproduction, distribution, communication to the public, making available, translation and adaptation.<sup>106</sup>

### 4. Transfer of Rights/ Works for hire

The initial ownership of rights vests in the author, who may transfer or assign the rights in whole or in part.<sup>107</sup> Any person who adapts or translates a work shall be entitled to the rights in the new work.<sup>108</sup>

<sup>104</sup> <https://wipo.lex.wipo.int/en/text/363859>

<sup>105</sup> Article 1

<sup>106</sup> Article 2

<sup>107</sup> Article 53

<sup>108</sup> Article 4

## 5. Enforcement

The Act provides for civil remedies as well as criminal sanctions through the judicial system. The administrative remedies mainly deal with disclosure of information. The Act does not provide for precautionary measures and lacks a special regime for online infringement as well as ISP liability.<sup>109</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Damages and Compensation, Destruction Publication of Judgement		Article 83, 84 Article 84a
Circumvention of TPMS and ERMI	Penalties		Article 75b - 75e
Criminal Sanctions	Fines or custodial sentences		Article 76 - 80
Precautionary Measures	✓		
Administrative Action	Disclosure of information		Article 84b
Special Regime for online infringement	✓		
ISP Liability	✓		

<sup>109</sup> <https://wipo.lex.wipo.int/en/text/363859>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The Act sets out an exhaustive list of exceptions and limitations, subject to the three-step test. It also contains specific exceptions for visually impaired persons, libraries and archives, educational purposes as well as for circumvention of technological protection measures.<sup>110</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	List	Temporary reproduction Reproduction for private use Reproduction by business entities for their internal use Reproduction by hospitals and other public institutions	General	Article 11a Article 12 Article 14 Article 15
Visually impaired	Exhaustive List	Accessible format copies	Specific	Article 17
Libraries, Museums and Archives	Exhaustive List	Reproduction for the purpose of back-up and preservation, for the restoration of missing parts, non-commercial purposes	Specific	Article 16
Education	Exhaustive List	Reproduction of minor portions for the purpose of educational activities	Specific	Article 13, 18
Circumvention of TPMS		Anti-circumvention in the case of exceptions and limitations		Article 11, 75 (d)

<sup>110</sup> The Consolidated Act on Copyright (Consolidate Act No. 1144 of October 23, 2014), <https://wipolex.wipo.int/en/text/363859>

## 14. EGYPT



### 1. Introduction

#### Reference

Copyright is governed by the third book of Law No. 82 of 2002 on the Protection of Intellectual Property Rights.<sup>111</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: March 2, 1977	NO	NO
Implementation	YES	NO	NO

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The author is the person who creates the work and in the case of a published work, the person who is indicated as the author unless proven otherwise. A work, under Article 13 is defined as “*any created literary, artistic or scientific work, whatever its type, mode of expression, significance or purpose of its creation*”. The definition thus includes ebooks as well as audio books.<sup>112</sup>

### 3. Exclusive rights

According to Law No. 82 of 2002 on the Protection of Intellectual Property Rights exclusive rights include moral rights and economic rights. The moral rights include the right of paternity and the right to integrity. The economic rights include reproduction, broadcasting, re-broadcasting, public performance, communication to public, translation, adaptation, rental, lending and making available to public.<sup>113</sup>

### 4. Transfer of Rights

The initial ownership of rights vests in the author, who may transfer the economic rights partially or in full to a third party. The transfer can be through a contract, testamentary disposition, operation of the law, assignments or voluntary or compulsory licences.<sup>114</sup>

<sup>111</sup> Available at <https://wipolex.wipo.int/en/text/126540>

<sup>112</sup> Article 138

<sup>113</sup> Article 143

<sup>114</sup> Article 149



## 5. Enforcement

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Conservatory injunctions to: - discontinue publication, exhibition, reproduction, communication to public or manufacturing of the work - Seizure		Article 179
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		Article 181
Criminal Sanctions	Fines and custodial sentences or both; Permanent closure of establishments perpetrating the infringement		Article 181, 187
Precautionary Measures		✓	
Administrative Action	Alternative dispute resolution		Article 182
Special Regime for online infringement			
ISP Liability			

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive list	<ul style="list-style-type: none"> <li>-Performance of works within family circles or by students within the educational premises</li> <li>-Single copies for personal use (Subject to three step test)</li> <li>-Quotation for purposes of criticism and information</li> <li>- reproduction for use in administrative, judicial or arbitral proceeding</li> <li>- temporary copies in digital transmission</li> <li>Reproduction for purposes of reporting news</li> </ul>	General	Article 171 (4), (5), (9) Article 172
Visually impaired		No specific exceptions for visually impaired		
Libraries and Archives	List	<ul style="list-style-type: none"> <li>Reproduction</li> <li>-of an extract for purposes of research and study</li> <li>- for preservation of the original copy or for replacing a copy that is lost or destroyed and it is impossible to obtain another original.</li> </ul>	General	Article 171(8)
Education	List	<ul style="list-style-type: none"> <li>Reproduction for the purpose of:</li> <li>-teaching and training by way of illustration and explanation</li> </ul>	General	Article 171 (6)
Circumvention of TPMS		No exceptions to circumvention of TPMS		

# 15. FINLAND



## 1. Introduction

### Reference

Copyright Act July 8, 1961/404 (as amended by Act November 18, 2016/972)<sup>115</sup>

## Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: March 23, 1928	Ratification December 14, 2009	EU Ratification October 1, 2018
Implementation	YES	YES	YES

## Membership to Regional IP Organisation

European Union Intellectual Property Office

## 2. Published works protected by Copyright

The Act protects literary works in any form of expression, including ebooks and audio books.

## 3. Exclusive rights

The Act grants both moral and economic rights. The economic rights include reproduction, making available to the public, translation and adaptation, communication to the public and distribution by way of sale and hire. The law grants the right to communication to the public and the right to making available as two separate rights.<sup>116</sup>

## 4. Transfer of Rights

The author may transfer his economic rights by operation of the law, by assignment or licence. The licences may be exclusive or non-exclusive.<sup>117</sup>

<sup>115</sup> Available at <https://wipolex.wipo.int/en/legislation/details/17810>

<sup>116</sup> Article 2

<sup>117</sup> Section 27

## 5. Enforcement<sup>118</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunction, Damages, Barring order		Article 60b-f
Circumvention of TPMS and ERMI	Fines, Compensation, Forfeiture		Article 56e, 56f, 58, 60,68
Criminal Sanctions	Imprisonment (up to 2 years), fines		Article 56
Precautionary Measures		✓	
Administrative Action		✓	
Special Regime for online infringement	Provides for protection using technological protection measures and electronic rights management systems		Article 50c, 50d
ISP Liability	Injunctions, fines, compensation, damages	✓	Article 60-60F

## 6. Exceptions and Limitations Applicable to Published Works<sup>119</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	List	Reprographic reproduction for: -Citation -Reporting current events -Personal use - Technical (with no commercial value) - Internal information use Temporary reproduction	Specific	Article 11, 11a, 12, 13, 13a
Visually impaired		Reproduction in accessible format copies for use by visually impaired persons	Specific	Article 17-17D
Libraries and Archives	List	Reproduction for: - non- commercial purposes -educational research purposes -preservation, or replacement of damaged or destroyed copies -orphan works	Specific	Article 16-16F
Education		Reproduction for illustration and instruction in educational institutions	General	Article 14
Circumvention of TPMS		Technological research or teaching or access by legitimate users.	General	Article 50a

<sup>118</sup> Copyright Act July 8, 1961/404 (as amended by Act November 18, 2016/972 available at <https://wipo.lex.wipo.int/en/legislation/details/17810>

<sup>119</sup> *Ibid*

# 16. FRANCE



## 1. Introduction

### Reference

Copyright in France is governed by the Intellectual Property Code (IPC) enacted by the statute of 1 July 1992, as consolidated in 2019, under Part One Literary and Artistic Property.<sup>120</sup>

The IPC codifies prior statutes and decrees

## Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Ratification: September 5, 1887	Ratification: December 14, 2009	Ratified by the EU October 1, 2018 <sup>121</sup>
Implementation	YES	YES	YES

## Membership to Regional IP Organisation

European Intellectual Property Office

## 2. Published works protected by Copyright

Copyright protects literary works in any tangible form, including ebooks and audio books.<sup>122</sup>

## 3. Exclusive rights applicable to published works

The law provides for both moral and economic rights. The economic rights include reproduction, distribution, communication to the public, making available, rental and lending translation, adaptation.<sup>123</sup>

## 4. Transfer of Rights/ Works for Hire

The *Code de la Propriété Intellectuelle* provides for authors to receive proportional remuneration<sup>124</sup> and that each remuneration has to be distinct for each type of exploitation<sup>125</sup>. Furthermore, French legislation forbids any global transfer of authors' rights on their future works.

<sup>120</sup> <https://wipo.int/en/legislation/details/19324>

<sup>121</sup> <https://ec.europa.eu/digital-single-market/en/news/european-union-joins-marrakesh-treaty#:~:text=On%201%20October%202018%2C%20the,impaired%20or%20otherwise%20print%20disabled.&text=The%20ratification%20means%20that%20the,as%20of%201%20January%202019.>

<sup>122</sup> Article L 112-1 IPC

<sup>123</sup> Article L 123-1 IPC

<sup>124</sup> Article L 131-4 IPC

<sup>125</sup> Article L. 132-17-3 IPC

## 5. Enforcement

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Cessation Injunction Damages Destruction Confiscation Recall of infringing items Publication of Judgment		Art. 809 Code of Civil Procedure Art. 1240 et 1241 Civil Code Art. L. 336-2 IPC Art. L. 331-1 and following ones of IPC
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		Art. L. 331-5 IPC Art. L. 332-1 IPC Art. L. 335-3-1 IPC Art. R. 335-3 IPC
Criminal Sanctions	Fines and custodial sentences or both		Art. L. 335-1 <i>et suivants</i> IPC
Precautionary Measures	Precautionary seizure		Art. L. 332-1 <i>et suivants</i> IPC
Administrative Action			Art. L. 331-31 IPC
Special Regime for online infringement	<i>Hadopi</i> "3 strikes procedure"		Art. L. 331-4, art. L. 331-5 IPC
ISP Liability	Notice and take down procedure		Law n° 2004-575 of June 21st, 2004, art. 6

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)<sup>126</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	List	Temporary reproduction, Short quotation, parody, pastiche, caricature		Section X.3 (Art. L 122-5 of IPC)
Visually impaired		Accessible Format Copies	General	Section X.3 (Art. L 122-5 of IPC)
Libraries and Archives		Research	General	Section X.3 (Art. L 122-5 of IPC)
Education		Teaching, Research	General	Section X.3 (Art. L 122-5 of IPC)
Private copying		Remuneration for digital private copies (scan and copies from digital to digital) by an individual for oneself and one's close family		Section X.3 (Art. L 122-5 of IPC)
Public lending right		Lending of books and remuneration		<b>Art. L. 133-1 of IPC</b>
Circumvention of TPMS				Art. L. 331-5 IPC Art. L. 332-1 IPC (civil remedies) Art. L. 335-3-1 IPC and R. 335-3 IPC (criminal sanctions)

<sup>126</sup> <https://wipo.lex.wipo.int/en/legislation/details/19324>

# 17. GEORGIA



## 1. Introduction

### Reference

Copyright is governed by the Law of Georgia No. 2112-IIS of June 1999 on Copyright and Related Rights as amended up to Law NO.1917 of December 23, 2017.<sup>127</sup>

## Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: February 16, 1995	Accession: July 4, 2001	NO
Implementation	YES	YES	NO

## Membership to Regional IP Organisation

No

## 2. Published works protected by Copyright

The law covers both traditional books as well as ebooks and audio-visual works as it covers literary works irrespective of their purpose, value genre, size, form or means of expression.<sup>128</sup>

## 3. Exclusive rights

The economic rights granted include reproduction, translation and transformation, rental and lending, distribution, importation, public display, public performance, communication to the public, making available, translation, adaptation, rental and any other uses of the work. The law provides for the full set of rights as granted under both the Berne Convention and the WCT.<sup>129</sup>

## 4. Transfer of Rights/Works for hire

The exclusive rights are granted to the author of the works and may be transferred to third parties in part or in whole, by testamentary disposition or operation of the law. In the case of commissioned works, copyright is deemed to belong to the person who commissioned the work, unless there is an agreement to the contrary.<sup>130</sup>

<sup>127</sup> <https://wipo.lex.wipo.int/en/legislation/details/18224>

<sup>128</sup> Article 5 and 6

<sup>129</sup> Article 18

<sup>130</sup> Article 16, 35 and 36



## 5. Enforcement

The Act provides for enforcement through civil and criminal remedies as well as administrative procedures. There are no specific provisions for online piracy or liability of ISPs.

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Damages Confiscation of profits made by the infringer lost profits by the author Lump sum compensation		Article 44 Article 59
Circumvention of TPMS and ERMI	Destruction		Article 58
Criminal Sanctions	Fines, corrective labor or imprisonment <sup>131</sup>		Article 58
Precautionary Measures		✓	
Administrative Action <sup>132</sup>	Administrative responsibility		Article 58
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>131</sup> Encroachment upon the rights of a holder of copyright or related rights and upon the rights of database producer) of the Criminal Code of Georgia

<sup>132</sup> Administrative actions relate to Articles 157 (Violating copyright, related rights and the rights of database manufacturers), 157 (Altering, destroying or falsifying the rights management information indicated on the copies of works, audio and video records or databases) and 157 (Altering or destroying the protection sign (mark) placed by the holder of the right on the copies of works, audio records, video records or databases) of the Administrative Offences Code of Georgia

## 6. Exceptions and Limitations Applicable to Published Works

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive list	Reproduction - for personal use - for quotation -reporting current affairs - review of events -public speeches, sermons, lectures, sermons etc. Works permanently displayed in public places Court proceedings	Specific	Article 21, 23, 24, 25, 26
Visually impaired		Reproducing lawfully published works, created using relief raised dots printing, or other special means for the blind, for non-profit purposes, except for works specially created for such means of use.	Specific	Article 23
Libraries and Archives		Non-commercial reproduction to replace copies that are lost, damaged or become unusable	General	Article 22
Education		Reproduction for Teaching activities	General	Article 22
Circumvention of TPMS		No exceptions to circumvention of TPMS		

# 18. GERMANY



## 1. Introduction

### Reference

Copyright in Germany is governed by the Act on Copyright and Related Rights (Copyright Act, last amended by Act of 28 November, 2018)<sup>133</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Ratification: September 5, 1887	Ratification: December 14, 2009	EU Ratification October 1, 2018
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

European Union Intellectual Property Office

## 2. Published works protected by Copyright

Copyright protects literary works which include written works and speeches in any tangible form. Ebooks and audio books are also protected works.<sup>134</sup>

## 3. Exclusive Rights

The Act provides for both moral and economic rights. The economic rights include reproduction,<sup>135</sup> distribution,<sup>136</sup> exhibition,<sup>137</sup> communication to the public<sup>138</sup>, making available<sup>139</sup>, rental rights<sup>140</sup>.

## 4. Transfer of Rights and Works for Hire

Ownership of copyright vests in the author and may transferred by testamentary disposition.<sup>141</sup> Copyright may not be transferred to third parties but the right to use may be assigned or licensed. Where the licensee fails to exercise the rights affecting the legitimate interests of the author, the author may revoke the license (this right may be exercised within two years). Interestingly, the author cannot waive the right of revocation but has the leeway to set new terms with the transferee.<sup>142</sup> Once revoked, the right to

<sup>133</sup> [http://www.gesetze-im-internet.de/englisch\\_urhg/index.html](http://www.gesetze-im-internet.de/englisch_urhg/index.html)

<sup>134</sup> Section 1 and 2

<sup>135</sup> Section 16

<sup>136</sup> Section 17

<sup>137</sup> Section 18

<sup>138</sup> Section 19

<sup>139</sup> Section 19a

<sup>140</sup> Section 17

<sup>141</sup> Section 28

<sup>142</sup> Section 41

use the works reverts to the author. This ensures that a transferee exploits the works as intended. In the case of works created under employment or on commission, the same terms will apply unless the contract of employment or engagement states otherwise.<sup>143</sup>

## 5. Enforcement

Enforcement of rights is done through the courts which provide for civil remedies as well as criminal sanctions. These are also applicable in the case of circumvention of technological protection measures. There are no specific provisions in the law for online infringement or ISP liability, but a special regime has been established via case law.<sup>144</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Cessation, Damages, Destruction, Compensation, Injunction		Section 97, 98, 101a, 101b
Circumvention of TPMS and ERM	Fines and custodial sentences or both		Section 108b
Criminal Sanctions	Fines and custodial sentences or both		Section 106, 107, 108
Precautionary Measures	Anton Piller Orders		Section 101a
Administrative Action	Confiscation, Border measures		Section 110, 111b, 111c
Special Regime for online <sup>145</sup> infringement	Yes, via case law		
ISP Liability	Yes, via case law – concept of “Störerhaftung” (“disturber” or “instigator”) in tort of nuisance.		

<sup>143</sup> Section 43.

<sup>144</sup> It is important to note that although Germany has not implemented the provisions of Art. 8 par. 3 of the Infosoc Directive (2001/29/EC), which reads as follows: “Member States shall ensure that rights holders are in a position to apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right”, it has developed case law on the liability of internet service providers and consequently applies a regime on online infringement.

<sup>145</sup> Was unable to find specific provisions from the translation.

## 6. Exceptions and Limitations Applicable to Published Works

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	List	Temporary reproduction Reprographic reproduction for: - Citation - Reporting current events - Newspaper articles and broadcast commentaries - Personal use - public speeches - Judicial and administrative purposes - Religious purposes - Text and data mining	Specific	Section 44a, 45, 46, 48, 49, 50, 51, 52, 53, 60d
Visually impaired		Accessible format copies by visually impaired persons and those with other disabilities impairing their access to the work, and authorised entities	Specific	Section 45a
Libraries and Archives		Reproduction for: - non- commercial purposes - educational research purposes - preservation, or replacement of damaged or destroyed copies - interlibrary, inter-archival exchange	Specific	Section 60e, 60f
Education		Reproduction for: - Teaching and examination purposes - Scientific research - Media collections for teaching	Specific	Section 60a, 60b, 60c
Circumvention of TPMS		No exceptions		

# 19. GHANA



## 1. Introduction

### Reference

Ghana Copyright Act 2005 (Act 690) which repealed the previous law and implemented the WCT.<sup>146</sup>

## Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: July 11, 1991	Ratification: August 18, 2006	Ratification: May 11, 2018
Implementation	YES	YES	NO

## Membership to Regional IP Organisation

Ghana is a member of ARIPO.

## 2. Published works protected by Copyright

The Copyright Act 2005 does not provide a specific definition of published works but does list the works that may be eligible for copyright protection once they fulfil the criteria for protection. Under Section 76, literary works include novels, stories, or poetical works, plays, textbooks and treatises, histories, biographies, essays, articles, encyclopaedia, dictionaries etc. regardless of the mode or form of expression. Ebooks and audio books would thus be covered by the definition.<sup>147</sup>

## 3. Exclusive Rights

The Act sets out moral rights and economic rights. The economic rights granted include the rights of reproduction, translation, adaptation and arrangement, public performance, distribution and rental.<sup>148</sup> The right of making available is not specifically included in the provisions, but it is presumed to be part of the wider communication to the public right. To this extent, the law has included the provisions of the WCT to enable the exercise and protection of the works in the digital environment.

## 4. Transfer of Rights and Works for Hire

The economic rights initially vest in the author and may be transferred by operation of the law through licences, assignments or testamentary disposition, in part or in whole.<sup>149</sup>

<sup>146</sup> Available at <https://wipolex.wipo.int/en/legislation/results?countryOrgs=GH&subjectMatters=11>

<sup>147</sup> Section 1

<sup>148</sup> Section 5

<sup>149</sup> Section 9

The author of the work is deemed to be the owner of the copyright, however, where the work is done under commission or under employment, the employer or the person who commissioned the work is deemed to be the owner.<sup>150</sup>

## 5. Enforcement

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunction, Detention by Customs Order for removal of infringing works Damages		Section 47
Circumvention of TPMS and ERMI	Fines or custodial sentences		Section 42 (1) (h)
Criminal Sanctions	Fines and custodial sentences or both Compensation of Victim of offence and forfeiture		Section 43 and 45 Section 46
Precautionary Measures	Anton Pillar Orders		Section 47 (2)
Administrative Action	Mediation by the Copyright Office Investigation of copyright infringement Cases and anti- piracy activities		Section 48 Section 50
Special Regime for online infringement			Electronic Transactions Act
ISP Liability			Electronic Transactions Act

<sup>150</sup> Section 7

## 6. Exceptions and Limitations Applicable to Published Works<sup>151</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing/ Practice	Reproduction, translation, adaptation, arrangement or other transformation of the work for exclusive personal use Quotation Reporting of current affairs Publication for public interest Ephemeral recordings	General	Section 19
Visually impaired		No exceptions for visually impaired		
Libraries and Archives	Fair Practice	Reproduction for: - non- commercial purposes - educational research purposes - preservation, or replacement of damaged or destroyed copies - interlibrary, inter-archival exchange	Specific	Section 21, 23 (3)
Education	Fair Practice	Professional training or public education	General	Section 19
Circumvention of TPMS		No exceptions to circumvention of TPMS		

<sup>151</sup> Copyright Act 2005 (Act 690) <https://wipolex.wipo.int/en/legislation/results?countryOrgs=GH&subjectMatters=11>



## 20. GREECE



### 1. Introduction

#### Reference

Greece Copyright, Related Rights and Cultural Matters Law 2121/1993 (Law No. 2121/1993 on Copyright, Related rights and Cultural Matters (as amended up to Law No. 4531/2018)))<sup>152</sup>

Collective management of copyright and related rights, multi-territorial licensing in musical works for online use in the internal market and other issues falling within the scope of the Ministry of Culture and Sports Law 4481/2017.

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: November 9, 1920	Ratification: December 14, 2009	EU Ratification: October 1, 2018
Implementation	YES	NO	YES

### Membership to Regional IP Organisation

European Union Intellectual Property Office.

### 2. Published works protected by Copyright

The law provides for protection of literary works in any tangible form which includes ebooks and audio books.<sup>153</sup>

### 3. Exclusive rights applicable to published works

The law provides for both moral and economic rights.<sup>154</sup> Economic rights include reproduction, adaptation, translation, distribution, rental and public lending, public performance, communication to the public and importation.<sup>155</sup> The right of communication to the public includes the right of making available. The Act thus incorporated the provisions of the WCT in relation to rights granted facilitating the exercise of the rights in the digital environment.

### 4. Transfer of Rights and Works for Hire

The economic rights may be transferred through assignment, in part or in whole or through licences, which may be exclusive or non-exclusive. The authors' remuneration shall be a

<sup>152</sup> <https://wipolex.wipo.int/en/text/480967>

<sup>153</sup> Article 2

<sup>154</sup> Article 1

<sup>155</sup> Article 3

percentage of the retail price of the sold copies, which should not be less than 10% in case of works of literature. It is important to note that the author has the right to rescind the transfer of economic rights subject to payment of compensation to the transferee, when the author considers such action to be necessary for the protection of his personality because of changes in his beliefs or in the circumstances.<sup>156</sup> The moral rights, however, remain independent of the economic rights. Where a work is created by an employee in the execution of an employment contract, the initial holder of the economic and moral rights in the work shall be considered the author of the work. Unless provided otherwise by contract, only such economic rights as are necessary for the fulfilment of the purpose of the contract shall be transferred exclusively to the employer.

## 5. Enforcement

The law provides for the enforcement of copyright through civil and criminal sanctions which are applicable in cases of circumvention of technological protection measures and removal of electronic rights management systems. The law has a special regime for online infringement including safe harbour provisions for ISPs.<sup>157</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunction, Damages		Article 64, 64a, 65
Circumvention of TPMS and ERMI	Technological measures		Article 66a
Criminal Sanctions	Fines and custodial sentences or both		Article 66
Precautionary Measures	✓		Article 64
Administrative Action	✓		Article 65a
Special Regime for online infringement	Site blocking Content blocking		Article 66e
ISP Liability	Safe harbours		Article 66e

<sup>156</sup> Article 4(e)

<sup>157</sup> Copyright, Related Rights and Cultural Matters Law 2121/1993 as amended up to Law No. 4531/2018) available at <https://wipo.lex.wipo.int/en/text/480967>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The law provides for limitations and exceptions which are in line with the EU Directive. In addition to the exceptions described in the table below, there are provisions for the permitted use of orphan works, for purposes of digitisation, making available to the public, indexing, preservation, restoration and cataloguing.

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive List	Reproduction for private use subject to payment of equitable remuneration Quotation and extracts Information purposes Temporary acts of reproduction which are transient or incidental	General	Article 18, 19, 23 – 27, 28b, 28c
Visually impaired	List	Accessible format copies Uses directly related to the disability Non-commercial use	Specific	Article 28a
Libraries and Archives	Exhaustive List	Reproduction for the purpose of retaining one additional copy or of transferring it to another non profit-making library or archive. Borrowing for educational purposes	Specific	Article 22 Law 2121/1993  Article 54 Law 4481/2017
Education	Exhaustive List	Reproduction for textbooks and anthology with works of deceased authors Reproduction for teaching or examination purposes at an educational establishment	Specific	Article 20, 21
Circumvention of TPMS		No exceptions to circumvention of TPMS		
Orphan Works	Exhaustive List	Digitisation; Making available to the public; Indexing; Preservation; Public interest Restoration and Cataloguing.	Specific	Article 27A

## 21. HUNGARY



### 1. Introduction

#### Reference

Act No. LXXVI of 1999 on Copyright (consolidated text of July 16, 2015)<sup>158</sup>

#### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: February 14, 1922	Ratification: November 27, 1998	EU Ratification October 1, 2018
Implementation	YES	YES	YES

#### Membership to Regional IP Organisation

European Intellectual Property Office.

### 2. Published works protected by Copyright

The Act protects literary works such as books and other written material as long as they have been reduced to a tangible format.<sup>159</sup>

### 3. Exclusive Rights

The Act recognises both moral and economic rights.<sup>160</sup> The moral rights are the right to paternity and right to integrity. The economic rights include the right of reproduction,<sup>161</sup> distribution,<sup>162</sup> public performance,<sup>163</sup> communication to the public.<sup>164</sup> The right of communication to the public may be interpreted to cover the right of making available.<sup>165</sup>

### 4. Transfer of Rights

Transfer and assignment of copyrights are regulated by the Hungarian Civil Code, “under the legal framework applicable to personal and property legal relationships”, as special contracts.

<sup>158</sup> Available on WIPO LEX at <https://wipolex.wipo.int/en/text/484349>

<sup>159</sup> Section 1

<sup>160</sup> Section 13 and 14

<sup>161</sup> Section 18 and 19

<sup>162</sup> Section 23

<sup>163</sup> Section 24 and 25

<sup>164</sup> Section 28

<sup>165</sup> It was difficult from the translation to get the right of rental.

## 5. Enforcement

The Act provides for both civil and criminal action through the courts. These also apply to circumvention of technological protection measures. Precautionary measures and administrative actions are also available.<sup>166</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Cessation, Repayment, Seizure, Destruction, Damages		Section 94
Circumvention of TPMS and ERMI	Fines, Destruction		Section 95, 97
Criminal Sanctions	Imprisonment		Section 385 Hungarian criminal code
Precautionary Measures	Anton Pillar Order		Section 94
Administrative Action	Border measures; suspend release of the infringing goods		Section 96
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>166</sup> Act No. LXXVI of 1999 on Copyright (consolidated text of July 16, 2015, Available on WIPO LEX at <https://wipo.int/en/text/484349>

## 6. Exceptions and Limitations Applicable to Published Works

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	List	Temporary reproduction Reprographic reproduction for: - Citation - Reporting current events - Personal use - Judicial and administrative purposes	General	Section 33, 34, 36
Visually impaired		Any non-commercial use of a work shall be free if the purpose is to allow for accessible format copies for the visually impaired	Specific	Section 41(1)
Libraries and Archives		Reproduction for: - non- commercial purposes - educational research purposes - preservation, or replacement of damaged or destroyed copies - interlibrary, inter-archival exchange	Specific	Section 35(4), 39, 40
Education		Reprographic reproduction for teaching and examination purposes	Specific	Section 34 (4)
Circumvention of TPMS		Allowed in the case specified uses where the person has legitimate access through exceptions and limitations set out in the law.	Specific use	Section 95 A(1)

## 22. ICELAND



### 1. Introduction

#### Reference

The Copyright Act No. 73, of 29 May 1972, as amended up to Act No. 88/2019 of 1. January, 2020<sup>167</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession June 30, 1947	NONE	None – but work on ratification has been started in the Ministry of education and culture
Implementation	YES	NO	NO

### Membership to Regional IP Organisation

Iceland is a member of the European Patent Organisation and the Nordic Patent institute.

### 2. Published works protected by Copyright

The definition of the works protected under copyright includes any written text in whatever form and could thus be construed to include ebooks even though not expressly stated. Audio books are also be subject to protection.<sup>168</sup>

### 3. Exclusive rights

The author has the exclusive right to make copies of his work. He can do so in the original or altered form or as a translation as well as another form of adaptation. Other economic rights include reproduction, making available,<sup>169</sup> distribution, translation, adaptation<sup>170</sup> and rental. The person who translates the works to a foreign language or makes an adaptation shall be entitled to the above economic rights in relation to the new work created and the same applies to a person that translates a work from a foreign language into Icelandic.<sup>171</sup>

### 4. Transfer of Rights and Works for Hire

The economic rights of the work are held by the author, who may transfer or assign the rights to a publisher.

<sup>167</sup> Available at <https://wipolex.wipo.int/en/legislation/details/18497>

<sup>168</sup> Article 1

<sup>169</sup> Article 2

<sup>170</sup> Article 3

<sup>171</sup> Article 5

## 5. Enforcement

Infringers can be liable according to both civil law and criminal law, if there is intent or gross negligence by the infringer. Copying for private use is permitted in the law and does not amount to infringement of the rights under the Copyright Act. nr. 73/1972.<sup>172</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions Seizure Destruction, Damages to be paid for illegal use based on loss of revenues and or the financial gains of the infringer		Article 55, 56, 59a
Circumvention of TPMS and ERMI	Administrative measures by ruling committee		Articles 50a-d
Criminal Sanctions	Fines Seizure Destruction Custodial sentences		Article 54
Precautionary Measures	Injunction is possible and or seizure		Common civil law rules.
Administrative Action	Compensation Determination by a Committee appointed by Minister		Article 56, 57
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>172</sup> The Copyright Act No. 73, of 29 May 1972, as amended up to Act No. 88/2019 of January 2020 available at <https://wipo.lex.wipo.int/en/legislation/details/18497>



## 6. Exceptions and Limitations Applicable to Published Works

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing	Transient or incidental use (sole purpose of enabling transmission and without economic significance) Private use subject to payment of levy Quotation Reporting News Information		Article 10, 10a, 1, 11a, 13, 14, 15, 15a, 16, 20, 22-26, 22a
Visually impaired	Exhaustive list	Accessible format copies for non-financial purpose	Specific	Article 19
Libraries and Archives	Exhaustive list	Reproduction for - safekeeping and preservation - replacement of missing parts - Legal requirements - Preservation of delicate originals Access for purposes of research or education	Specific	Article 12, 12a
Education	Exhaustive list	Reproduction for teaching activities		Articles 17-18, 21
Circumvention of TPMS	Exhaustive list	No exceptions to circumvention of TPMS		

## 23. INDIA



### 1. Introduction

#### Reference

Copyright Act, 1957 (Act No. 14 of 1957) as amended in 2012. The 2012 amendments were mainly to update the Act in line with the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. These include the update of the rights granted as well as provisions to deal with online infringement of copyright and related rights.<sup>173</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Declaration of Continued Application: April 23, 1928	Accession: September 25, 2018	Ratification: June 24, 2014
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

NO.

### 2. Published works protected by Copyright

Works protected by copyright include original literary and artistic works in any form of expression, thus covering ebooks and audio books.<sup>174</sup>

### 3. Exclusive rights applicable to published works

The law grants both exclusive economic and moral rights. Economic rights include the right of reproduction, public performance, communication to the public, distribution, translation and adaptation. The rental right seems to be granted in the case of computer software.<sup>175</sup> The moral rights are the right to be identified as the author and the right to object to any modification, mutilation of his work that may be prejudicial to his interests.

### 4. Transfer of Rights

The owner of the copyright may assign the rights to a third party, either partially or in whole, but this is subject to the limitations under the copyright Act.<sup>176</sup> The assignee will be entitled to exercise the specific rights granted under the agreement; any rights or part thereof that are not included in the assignment are retained by the author.

<sup>173</sup> Available at <https://wipolex.wipo.int/en/text/390852>

<sup>174</sup> Section 13

<sup>175</sup> Section 14

<sup>176</sup> Section 18

## 5. Enforcement

The Act provides for enforcement by the judiciary through both civil and criminal actions. These also apply in the case of circumvention of technological protection measures. The Act however does not have any specific provisions for online infringement or ISP liability<sup>177</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, Damages, Accounts		Section 55
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		Section 65A-B
Criminal Sanctions	Fines and custodial sentences or both		Section 63-63A
Precautionary Measures		✓	
Administrative Action		✓	
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>177</sup> Copyright Act, 1957 (Act No. 14 of 1957, as amended up to Act No. 27 of 2012) Available at <https://wipo.int/en/text/390852>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The law provides for exceptions and limitations to copyright which include the general provisions under fair dealing and provisions for use by libraries and archives, educational and research institutions and visually impaired persons. There are no specific exceptions for circumvention of technological protection measures.

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing	Private or personal use Transient or incidental storage of a work Reproduction: - for purposes of judicial proceedings, - or use in parliamentary proceedings - news and reporting of current events	General	52 (a) to (h), m
Visually impaired	List	Accessible format copies for private personal use, educational purpose and research	Specific	52 (zb) i, ii
Libraries and Archives	List	- storage of a work in any medium by electronic means for non-commercial libraries and archives for preservation - reproduction for purposes of research	General	52 (n), (o), (p)
Education	Exhaustive list	Reproduction for teaching purposes and examination	Specific	52 (i), (j)
Circumvention of TPMS	Exhaustive list	The law does not have any express provision prohibiting the circumvention of TPMS in the case of permitted uses/exceptions and limitations. <sup>178</sup>		Section 65A(2) (a)

<sup>178</sup> Kenneth D. Crews Study on Copyright Limitations and Exceptions for Libraries and Archives: Updated and Revised (2017 Edition) [https://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=389654](https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=389654) page 208

## 24. INDONESIA

### 1. Introduction

#### References

Law of the Republic of Indonesia No.28 of September 2014 on Copyright<sup>179</sup>

Indonesia passed the Law on Copyright No.28 of 2014 to replace the 2012 Copyright law which was deemed to be inadequate, given the recent developments in the field of copyright and related rights. The Act incorporates the provisions of various international treaties to ensure their implementation and in particular the minimum standards set by the Berne Convention. The law is compatible with the legal developments and the public needs at the national level and is done in line with the Constitution of the Republic of Indonesia.

#### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession through Presidential Decree No. 18 (May 7, 1997)	Ratified through Presidential Decree No. 19 (May 7, 1997)	NO
Implementation	YES	YES	NO

#### Membership to Regional IP Organisation

No.<sup>180</sup>

### 2. Published works protected by Copyright

The Law clearly sets out what rights are protected under copyright. These are works such as scientific, artistic and literary works. Literary works include books, pamphlets, and all other written works. A work under the law is defined to cover any scientific, artistic and literary works that are a result of creative effort expressed in a tangible format. This included printed works as well as ebooks as the law covers all other written works presumably, regardless of the form.<sup>181</sup>

The issue of audio books is addressed as one of the accessible formats for visually impaired persons. Works that result from translation, adaptation, arrangement as well as works or data in machine readable form and other media are also protected by copyright.

<sup>179</sup> Available at <https://wipo.lex.wipo.int/en/text/370377> ( with translation tool to English)

<sup>180</sup> However, Indonesia is part of the ASEAN Working Group on Intellectual Property Cooperation (AWGIPC) that has prepared the ASEAN IP Rights Action Plan 2016-2025 which among other things seeks to enhance enforcement of intellectual property within the region.

<sup>181</sup> Article 1(3) and Article 40

### 3. Exclusive Rights

According to Indonesia Law of Copyrights No.28 2014 Article 4, exclusive rights comprise moral rights and economic rights. The moral rights are inalienable and cannot be transferred to third parties by the author. Publishers cannot acquire the moral rights from the authors even with the transfer of economic rights.

The economic rights granted to the author or other rights holder include the rights to reproduction in all forms (this will include online and other electronic media, publication of the works, reproduction of the works in all its forms, translation and adaptation, distribution, publication of the works, performance of the works and communication to the public<sup>182</sup> which also encompasses the right of making available) as well as rental.<sup>183</sup>

### 4. Transfer of Right/Works for Hire

The economic rights vest in the author or the copyright holder, where the copyright holder has transferred the rights as is the case between the authors and publishers.<sup>184</sup> The copyright can be transferred either in whole or in part from the author to the publisher or to another third party by written agreement. Interestingly, where the agreement is indefinite or is a flat agreement, the rights revert to the author/copyright holder after 25 years. This is mainly to safeguard the interests of the rights holder by ensuring that the transfers are definite.

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<sup>182</sup> Article 2 (16) states that "communication to the public; hereinafter referred to as Communication means the transmission of Works by wire or other media, other than broadcasting to be received by the public, including producing works, performances, or phonograms available to for public access from a place at a time chosen by them."

<sup>183</sup> Article 9

<sup>184</sup> Article 17

## 5. Enforcement

The law has very elaborate provisions on administrative enforcement especially as it relates to infringement on digital and electronic media including the internet.<sup>185</sup> The Government has the right to prevent infringement of copyright through supervision of copyright protected content and cooperation with other parties at both national and regional level to prevent the proliferation of copyright infringing content and supervision of recording of works in any media. It is instructive to note that Indonesia is also implementing the ASEAN IP Rights Action Plan 2016-2025 which, among other things, seeks to enhance enforcement of intellectual property within the ASEAN region.<sup>186</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Interlocutory Injunctions, Damages		Articles 96, 106 - 109
Circumvention of TPMS and ERMI	Technological measures		Article 52 – 53
Criminal Sanctions	Fines and custodial sentences or both		Article 112 – 118
Precautionary Measures		✓	
Administrative Action	Site blocking Content blocking	✓	Article 56, 57 <sup>187</sup>
Special Regime for online infringement	Site blocking Content blocking		Article 54 – 56
ISP Liability		✓	

<sup>185</sup> Law of the Republic of Indonesia No.28 of September 2014 on Copyright Available at <https://wipo.lex.wipo.int/en/text/370377>

<sup>186</sup> The ASEAN IP Rights Action Plan is available at <https://www.aseanip.org/Resources/ASEAN-IPR-Action-Plan-2016-2025>

<sup>187</sup> Article 55 and 56 provide that the Ministry in charge of telecommunications and information may block content that is infringing on existing copyright work either in part or in whole. This is useful in preventing the dissemination of the works but can be difficult in the case of certain social media channels where, once the content has been uploaded, there is no way of controlling the subsequent dissemination.

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The law provides for general exceptions and limitations which include use of the works for or on behalf of the government, use for purposes of reporting news, non-commercial use of works in digital media where the author/rights holder has granted permission for such use; reproduction of a substantial or whole part of a work for purposes of fair dealing, facilitating accessible format copies for the visually impaired, for libraries and archives.<sup>188</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing			Article 43, 48 – 51
Visually impaired	Exhaustive list	Accessible format copies	Specific	Article 44
Libraries and Archives	Exhaustive list	Reproduction for: - non- commercial purposes -educational or research purposes -preservation, or required replacement of damaged or destroyed copies -interlibrary, inter-archival exchange	Specific	Article 47
Education	Exhaustive list	Reproduction for: -Teaching activities -education and scientific development -scientific research	General	Article 26
Circumvention of TPMS		No specific exceptions to circumvention of TPMS		

<sup>188</sup> Law of the Republic of Indonesia No.28 of September 2014 on Copyright Available at <https://wipo.lex.wipo.int/en/text/370377>



## 25. IRAQ<sup>189</sup>



### 1. Introduction

#### Reference

The Copyright Act (Law No. 3 of 1971 on Copyright) was passed in 1971 and was last amended in 2004.<sup>190</sup>

### Treaty Ratification/Accession

Iraq has not acceded to the Berne Convention but provides for the minimum standard of protection as provided for under the Berne Convention.

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	NO	NO	NO
Implementation	YES	NO	NO

### Membership to Regional IP Organisation

No.

### 2. Published works protected by Copyright

The Act provides protection for all written works and sound recordings, regardless of their form.<sup>191</sup>

### 3. Exclusive Rights

The Act provides for economic rights including the reproduction in any manner or form, translation, adaptation and arrangement of works, rental to the public, distribution by way of sale or other transfer of ownership, importation, transmission and communication to the public including the right of making available.<sup>192</sup>

### 4. Transfer of Rights

The economic rights may be transferred by operation of the law. In the case of works created on behalf of another person, the rights shall revert to the author unless there is an agreement to the contrary. In the case of a work created under employment, the law provides for two scenarios. In the first scenario the employee, during the course of employment, uses the employer's resources to create the work. The rights will then be deemed to be vested in the employer, unless there is a contract stating otherwise. In the second scenario, where the employee creates a work during the course of employment but does not use the employer's resources, he retains the rights.<sup>193</sup>

<sup>189</sup> It was not possible to get the full English version of the copyright law; only small excerpts were available at WIPO Lex.

<sup>190</sup> Available at <https://wipo.lex.wipo.int/en/legislation/details/10345> but no English translation available on WIPO LEX

<sup>191</sup> Article 2 and 3

<sup>192</sup> Article 8

<sup>193</sup> Article 10 and 11

## 5. Enforcement

The law sets out what amounts to infringement and the cases of infringement are determined based on the cultural standing of the author, value of the work and the extent of the infringement.<sup>194</sup> The law provides for both civil and criminal sanctions as well as provisional measures. There are no specific provisions for online infringement or ISP liability.<sup>195</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, including cease and desist, confiscation of infringing works and forfeiture of proceeds from the sale of infringing works		Article 46
Circumvention of TPMS and ERMI		✓	
Criminal Sanctions	Fines and/or Imprisonment Order for temporary or permanent closure of establishment facilitating production of infringing copies, forfeiture and destruction of said copies		Article 45
Precautionary Measures	Provisional Measures		
Administrative Action		✓	
Special Regime for online infringement		✓	
ISP Liability		✓	

## 6. Exceptions and Limitations Applicable to Published Works

The law provides that the exclusive rights shall be subject to exceptions and limitations determined within the three-step test; they shall be confined to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder.<sup>196</sup> There are no specific provisions regarding the categories established for this report

<sup>194</sup> Article 44

<sup>195</sup> Article 55

<sup>196</sup> Between Article 15 and 16

## 26. IRELAND



### 1. Introduction

#### Reference

Copyright and Related Rights Act, 2000 (Act No. 28 of 2000) as amended by the Copyright and other Intellectual Property Law Provisions Act, 2019 ( Act No.19 of 2019).<sup>197</sup>

#### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: October 5, 1927	Ratification: December 14, 2009	EU Ratification October 1, 2018
Implementation	YES	YES	YES

#### Membership to Regional IP Organisation

European Intellectual Property Office and the European Patent Office.

### 2. Published works protected by Copyright

Copyright subsists in the original expression of an idea in any form and includes literary works. Ebooks and audio books are protected as such.<sup>198</sup>

### 3. Exclusive Rights

The law grants both moral and economic rights. The latter consists of reproduction, making available to the public adaptation, distribution by rental, lending, and communication to the public.<sup>199</sup> The right of making available is expressly provided for in the Act.<sup>200</sup> The Act incorporates the rights granted under the Berne Convention as well as the additional rights granted under the WCT. Interestingly, the Act allows for lending without payment of remuneration.

### 4. Transfer of Rights

The Act provides for transmission of the economic rights by assignment or by testamentary disposition or operation of the law and is treated like any other moveable property.<sup>201</sup> The ownership of the rights initially vest in the author. Where the work is done in the course of employment, the employer is deemed to the owner unless there is an agreement to the contrary.<sup>202</sup>

<sup>197</sup> Available at <https://wipolex.wipo.int/en/text/526054>

<sup>198</sup> Section 17

<sup>199</sup> Section 37

<sup>200</sup> Section 40

<sup>201</sup> Section 120

<sup>202</sup> Section 23

## 5. Enforcement

The Act provides for enforcement through the judiciary using civil and criminal procedures. These also apply to technological protection measures.<sup>203</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Damages, Injunctions, account of profits, Destruction		Article 127-134,136
Circumvention of TPMS and ERMI	Fines, Order for delivery		Article 131, 140, 258, 260, 371, 378
Criminal Sanctions	Fines and custodial sentences or both Search and seizure		Article 140,141
Precautionary Measures	Anton pillar order		
Administrative Action	Border measures: Prohibition of goods		Article 147
Special Regime for online infringement	Circumvention of TPMs and Removal of ERMIs		Article 370, 378
ISP Liability		✓	

<sup>203</sup> Copyright and Related Rights Act, 2000 (Act No. 28 of 2000) as amended by the Copyright and other Intellectual Property Law Provisions Act , 2019 ( Act No.19 of 2019) Available at <https://wipo.lex.wipo.int/en/text/526054>

## 6. Exceptions and Limitations Applicable to Published Works

The Act provides for extensive exceptions and limitations both general and specific including exceptions for the visually impaired, circumvention of technological protection measures and removal of electronic rights management systems.<sup>204</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair dealing	For purposes of criticism or review, For reporting current events, Parliamentary and Judicial proceedings Parody, pastiche and caricature Non-commercial use Fair dealing	General	Article 51(a), 52, 69A, 70-77
Visually impaired		Right to modify and make available accessible format copies for persons with disabilities	Specific	Article 104, 252,
Libraries and Archives	Fair Dealing	Reproduction for: - non- commercial purposes -educational research purposes -preservation, or replacement of damaged or destroyed copies -interlibrary, inter-archival exchange - for curatorial purposes	Specific	Article 59-70, 233
Education		Reproduction and communication for – -Illustration for teaching for education, teaching and scientific research -Distance learning -Works not available on the internet -Format shifting -Text and data mining for education and research	Specific	Article 53-58, 57A, 57B, 225B
Circumvention of TPMS		Where a party is entitled to legal access	Specific	Article 374

<sup>204</sup> *Ibid*

## 27. ISRAEL



### 1. Introduction

#### References

Israel Copyright Act, 2007 (as amended on July 28, 2011).<sup>205</sup> The Copyright Act of 2007 repealed the 1911 Act of the United Kingdom.

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: December 14, 1949	NO	Accession: March 21, 2016
Implementation	YES	NO	YES

### Membership to Regional IP Organisation

No.

### 2. Published works protected by Copyright

The Act protects literary works which are original, including literary works, fixed in any form, which includes ebooks and audio books.<sup>206</sup>

### 3. Exclusive Rights Applicable to Published Works

The Act provides for both economic and moral rights. The economic rights include reproduction, publication, public performance, broadcasting, making available, adaptation (derivative works) and rental.<sup>207</sup> The moral rights granted are the right to be identified as the author and the right to object to any distortion or mutilation of the work that is prejudicial to the interests of the author.<sup>208</sup>

### 4. Transfer of Rights

The Copyright Act vests the initial ownership of rights in the author of the work. However, where the works are created under commission or in employment, the rights vest respectively in the author and in the employer, unless a contract provides otherwise.<sup>209</sup>

The exclusive economic rights may be transferred by assignment or licensing (exclusive or non-exclusive) through written contracts setting out modalities, conditions and consideration, as well as by testamentary disposition. However, moral rights are not transferrable.<sup>210</sup>

<sup>205</sup> Available at <https://wipo.lex.wipo.int/en/text/255135>

<sup>206</sup> Chapter 2, article 4

<sup>207</sup> Articles 11-17

<sup>208</sup> Articles 45-46

<sup>209</sup> Articles 33-35

<sup>210</sup> Article 37

## 5. Enforcement

The Act provides for judicial enforcement of rights through both civil and criminal actions at the instance of the rights holder or an exclusive licensee. The Act also provides for precautionary measures to deter infringement as well as administrative action through the customs department. There are no special provisions for online infringement or for ISP liability.<sup>211</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctive relief, Statutory damages, Destruction of infringing copies,		Articles 52-60
Circumvention of TPMS and ERMI		✓	
Criminal Sanctions	Penalties, imprisonment or both		Articles 61-62
Precautionary Measures	Supervision and monitoring		Articles 63, 65
Administrative Action	Detention by customs (Border measures)		Articles 65
Special Regime for online infringement	Circumvention of TPMs and Removal of ERMIs	✓	
ISP Liability		✓	

<sup>211</sup> Israel Copyright Act, 2007 (as amended on July 28, 2011). <https://wipo.lex.wipo.int/en/text/255135>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

Section 19 of the Act provides that the general exceptions are under fair use. There are specific exceptions for libraries and archives and for educational institutions. There are specific exceptions for visually impaired persons.<sup>212</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair use/ Fair dealing List	Fair use for purposes of private study, research, criticism, review, journalistic reporting, quotation or instruction and examination by an educational institution. Fair dealing factors (inter alia): (i) Purpose and character of the use (ii) character of the work used (iii) scope of the use qualitative and quantitative in relation to the whole work (iv) impact of the use on the value of the work and its potential market. The Minister may prescribe conditions for invoking fair use by regulations. Other general uses authorised include: - Use in judicial or administrative procedures - depositing for public inspection - incidental use of work - temporary or transient copies	General	Articles 19, 20, 21, 22, 26
Visually impaired		Authorised entities have permission to make accessible format copies to serve the needs of persons with disabilities. <sup>213</sup>	Specific	Article 28 A
Libraries and Archives		Exceptions to the right of reproduction can only be invoked if libraries & archives have acquired a copy of the work and require an additional copy, in case it is not commercially available in reasonable terms: (i) to make a reserve copy (ii) to replace a lost, destroyed or unusable copy of the work that was in the collection of any library.	Specific (Minister may make regulations providing for particular conditions)	Article 30, 31
Education		Fair use for private study, instruction and examination by an educational institution. Public performance by employees or students of an educational institution.	General (Minister may make regulations providing for particular conditions)	Articles 19 (a), 29 31
Circumvention of TPMS		No exceptions to circumvention of TPMS		

<sup>212</sup> <https://wipo.lex.wipo.int/en/text/341960>

<sup>213</sup> Kenneth D. Crews Study on Copyright Limitations and Exceptions for Libraries and Archives: Updated and Revised (2017 Edition) [https://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=389654](https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=389654) page 220



## 28. ITALY



### 1. Introduction

#### Reference

Law No. 633 of April 22, 1941, for the Protection of Copyright and Neighbouring Rights (as amended by numerous laws, in particular to transpose EU Directives).

#### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Ratification: September 5, 1887	Ratification: December 14, 2009	Ratification by EU October 1, 2018
Implementation	YES	YES	YES

#### Membership to Regional IP Organisation

European Union Intellectual Property Office (EUIPO) and European Patent Office (EPO)

### 2. Published works protected by Copyright

The Act protects creative works of the mind such as literary and artistic works, among other works, regardless of their mode of expression. This would include literary works in their different manifestations (e.g. paper books, ebooks, audio books, journals and periodicals), as well as databases and software, design, photographs and photographic works.<sup>214</sup>

### 3. Exclusive rights applicable to published works

According to the Law 633/1941, exclusive rights are divided into two, namely moral rights<sup>215</sup> and economic rights. The latter include, among others, publication,<sup>216</sup> reproduction,<sup>217</sup> transcription,<sup>218</sup> public performance,<sup>219</sup> communication to the public,<sup>220</sup> rental,<sup>221</sup> and distribution.<sup>222</sup> The right of communication to the public includes the right of making available. The rights granted are independent of each other and may be assigned or licensed separately, can be transferred and have a given duration (usually 70 years after the author's death, *see below*). Moral rights (right of authorship, right to oppose changes of the work that could be detrimental to the honour and reputation of the author, the right to decide to keep the work unpublished) are inalienable, non-transferable, and have no time limits.

The law also protects neighbouring rights, in accordance with EU Directives.

<sup>214</sup> Article 1  
<sup>215</sup> Section II of the Law  
<sup>216</sup> Article 12  
<sup>217</sup> Article 13  
<sup>218</sup> Article 14  
<sup>219</sup> Article 15  
<sup>220</sup> Article 18  
<sup>221</sup> Article 18 bis  
<sup>222</sup> Article 17

## 4. Ownership of Rights

The rights described above are owned by the author of a work by virtue of his role as creator, from the moment the work is created (art.6).

## 5. Duration of economic rights

Economic rights have a duration of 70 years after the author's death. In case of more than one author, the death of the author who died last is considered; for collective works (e.g. encyclopaedias, periodicals, etc.) the duration of the rights is determined based on the life of each author (in relation to the respective contribution to the work), while for the protection of the work as a whole (i.e. the sum of the various contributions) the term of 70 years starts from the first publication of the work itself (art. 26); the terms of rights duration start from 1 January following the death of the author or another event considered by law (art. 32-ter).

## 6. Transfer of Rights

Only for software and database the employer shall be entitled to exclusively exercise the economic rights of works created by an employee in the course of employment unless there is an agreement to the contrary. For other type of works, the transfer of rights to the employer should be agreed by the parties.

The economic rights may be transferred by testamentary disposition or other operation of the law in any manner or form and the transfer is limited to the rights specified.<sup>223</sup>

Under section III, the author may get into a "publishing contract" which is governed by the law. Peculiar characteristics are:

- a) The contract should include the transfer of the right of publication in print (in case of transfer only of digital rights, the provision of section III do not apply), though it is possible to transfer other rights in the same contract;
- b) Transfer of rights for future uses are not allowed;
- c) It is possible to transfer rights on future works, but only within given time;
- d) The duration cannot exceed 20 years, and clauses for automatic renewal of the contract are not allowed;
- e) With limited exceptions, listed by the law, the remuneration is in percentage of the revenues;
- f) If the person who acquires the right to publish the work fails to do so within the time stipulated under the contract, the rights holder has the right to seek a court order to terminate the contract and the rights so specified shall revert.<sup>224</sup>

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<sup>223</sup> Article 107, 115-117, 119, commi 3 e 4, 19

<sup>224</sup> Article 118-135

## 7. Enforcement

The law clearly sets out the actions that constitute infringement of copyright and provides for civil and criminal remedies and sanctions.<sup>225</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Damages and compensation Destruction Seizure Injunctions		Article 156 and following
Circumvention of TPMS and ERMI	If for profit: fines, imprisonment or both		Article 171 ter, co. 1, h)
Criminal Sanctions	Fines, imprisonment or both, orders for suspension, forfeiture, destruction, injunctions		Article 171, 171 bis, 171 ter
Precautionary Measures	Provisional measures Search and seizure		Article 162
Administrative Action	Administrative sanctions (not less than 103 euros for each illegal copy) Revocation of the operating license in case of recidivism		Article 174 bis, 174 ter
Special Regime for online infringement	The Authority for Communications Guarantees (AGCOM) has been provided by the Italian legislator with competences on the issue of compliance with on-line copyright rules, in particular through the "Regulation on the protection of copyright on electronic communications networks". AGCOM may request websites to remove illegal contents and possibly (under certain conditions) order ISPs not to allow Italian users to reach a particular site.		Delibera 680/13
ISP Liability		NO	

<sup>225</sup> Law No. 633 of April 22, 1941, articles 156-174-quinquies

## 8. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

Section XII.3 of the Law 633/1941 covers specific exceptions represented in the table below. The exceptions and limitation are formulated within the three step test. It is worth noting that in the case of application to works made available to the public, it must not conflict with the normal exploitation of the work or of the subject matter, and should not unreasonably prejudice the interests of the rights holders.<sup>226</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Reference
General Exceptions and Limitations	Listed	Reproduction for news, reporting public events and speeches, public security, reprographic copies for personal use, private copy of phonograms and videograms on analogic or digital devices (like CD, USB key, PC and smartphone memory, etc.) and transient reproduction	Specific	Article 65 to 68-bis
Visually impaired	Listed	Reproduction and communication to the public for persons with disabilities; limited to the extent of the disabilities and non-commercial use Full implementation of the Marrakech Treaty following the EU Directive. Authorised entities have not an obligation to search for the existence of an accessible version in commerce but, if informed, they cannot apply the exception	General	Article 71bis
Libraries and Archives	Listed	Public lending by public libraries. Fair remuneration is provided by a lump sum established yearly by the Government. Distribution of the funds is in charge by a CMO.	General	Article 69 and art. 2, comma 132, D.L. 3 Oct. 2006, n. 262
Education	Listed	Non- commercial purposes, Research, abridgement, quotation or reproduction of parts of the work for research, teaching and non-commercial use Reproduction and communication to the public for research and private study through dedicated terminals in public libraries, museums, education institutions	General	Article 70, 71 <i>ter</i>
Circumvention of TPMS		Rights holders are obliged to remove TPMS at the request of users, through a competent authority, who ordinarily have access under the certain exceptions and limitations: For example, those expressed by articles 68, 69, 71-bis		Article 71 <i>quinquies</i>

<sup>226</sup> Article 71-nonies

## 29. IVORY COAST



### 1. Introduction

#### Reference

Law No. 2016-555 of July 26, 2016, on Copyright and Related Right).<sup>227</sup>

#### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: July 8, 1961	NO	NO
Implementation	YES	NO	NO

#### Membership to Regional IP Organisation

*Organisation Africaine de la Propriété Intellectuelle (OAPI)*

### 2. Published works protected by Copyright

The Act protects written works including books, brochures, articles as well as other literary, artistic and scientific writings, including computer programs. It also covers oral works and in particular speeches, tales and legends, lectures, sermons, books in audio format and other works of the same nature. Ebooks are thus covered under the law.<sup>228</sup>

### 3. Exclusive Rights

Exclusive rights granted under the law include reproduction, rental, loan, distribution as well as right of representation.<sup>229</sup> The law further provides that the right of reproduction includes adaptation, arrangement and translation of the work as well as integration of the work in a database, extraction of a work from an original database or uploading the work onto digital networks.<sup>230</sup> The right of rental is subject to collective management.<sup>231</sup> The law further grants the exclusive right of communication to the public, including the right of making available.<sup>232</sup>

### 4. Transfer of Rights

The copyright owner is the author of the work.<sup>233</sup> Copyright in the work is deemed to belong to the natural or legal person under whose initiative or responsibility the work was created.<sup>234</sup> Transfer of rights may be through testamentary disposition or assignment/licence through a written contract.<sup>235</sup> Articles 64 to 70 set out the terms, conditions and modalities of publishing contracts, including a right to equitable remuneration in favour of the author.

<sup>227</sup> Loi n° 2016-555 du 26 juillet 2016 relative aux droits d'auteurs et des droits voisins Available at <https://wipo.lex.wipo.int/en/text/492160>

<sup>228</sup> Article 6

<sup>229</sup> Section 2 Article 16

<sup>230</sup> Article 17

<sup>231</sup> Article 18

<sup>232</sup> Article 19

<sup>233</sup> Article 36

<sup>234</sup> Article 39

<sup>235</sup> Article 54 to 57.

## 5. Enforcement

Rights may be enforced through civil and criminal actions.<sup>236</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	-Damages restitution, pecuniary and in-kind sanctions -Payment by violators -Damages in compensation for loss and interests		Article 146 and 147
Circumvention of TPMS and ERMI	-Imprisonment and fines		Article 140
Criminal Sanctions	-Imprisonment -Fines -Custodial sentences		Article 138, 139, 141, 142, 144
Precautionary Measures	Court may order seizure and confiscation of infringing works and sales profits; closure of facilities		Article 133, 145
Administrative Action		NO	
Special Regime for online infringement		NO	
ISP Liability		NO	

<sup>236</sup> *Loi n° 2016-555 du 26 juillet 2016 relative aux droits d'auteurs et des droits voisins* Available at <https://wipo.lex.wipo.int/en/text/492160>

## 6. Exceptions and Limitations Applicable to Published Works

The exceptions and limitations are general in nature with no specific provisions in relation to libraries and archives or the circumvention of technological protection measures.

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive List	Reproduction or translation of works lawfully made available to the public for: - private performances - private and personal use - parody, pastiche and caricature Reproduction - for purposes of news, reporting current affairs - criticism, educational and scientific information <sup>237</sup> - Private copy	General	Article 24, 25, 26
Visually impaired				
Libraries and Archives		-Reproduction and representation for preservation and private study or research, including making available of copies on terminals, subject to equitable remuneration		Article 33
Education		Reproduction for educational and scientific purposes	General	Article 25
Circumvention of TPMS		No exceptions		

<sup>237</sup> The exceptions and limitations are subject to the 3 step test. Section 28 of the Act states that "Reproductions or representations which, in particular by their number or their format, would not be in strict proportion with the exclusive purpose of immediate information pursued or which would not be directly related to the latter, give rise to remuneration of authors on the basis of agreements or tariffs in force in the professional sectors concerned."

## 30. JAMAICA



### 1. Introduction

#### Reference

The Copyright Act (Act No. 5 of 1993) as amended by the Copyright (Amendment) Act 2015<sup>238</sup>

#### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: September 28, 1993	Accession: March 12, 2002	NO
Implementation	YES	YES	NO <sup>239</sup>

#### Membership to Regional IP Organisation

No.

### 2. Published works protected by Copyright

Protected works under the Act include literary and artistic works. The definition of a literary work in the Act includes works which are written, spoken or sung. To this extent, ebooks and audio books would fall under the protected works.<sup>240</sup>

### 3. Exclusive rights applicable to published works

The Act provides for exclusive moral and economic rights. It does not provide for definition of each, but lists the rights granted to the rights holder. The economic rights include the right of reproduction, public performance, broadcast and adaptation.<sup>241</sup> The Act also incorporates the additional rights under the WCT namely the rights of making available, rental and distribution.<sup>242</sup> The distribution right is included in the right to issue copies to the public<sup>243</sup> and the rental right is included throughout the Act.<sup>244</sup>

### 4. Transfer of Copyright

Ownership of copyright originally vests in the author, unless there is an agreement to the contrary.<sup>245</sup> The economic rights granted under the Act may be transferred by assignment, testamentary disposition or operation of the law.<sup>246</sup>

<sup>238</sup> Available at <https://wipolex.wipo.int/en/legislation/results?countryOrgs=JM&subjectMatters=11>

<sup>239</sup> The law however has exceptions in relation to access by persons with disabilities including visually impaired persons under Section 65A

<sup>240</sup> Section 2

<sup>241</sup> Section 9

<sup>242</sup> Sections 2 and 3 provide definitions

<sup>243</sup> Section 9(1)(b)

<sup>244</sup> Section 78

<sup>245</sup> Section 22

<sup>246</sup> Section 23



## 5. Enforcement

The Act provides for enforcement through the judicial process including civil and criminal action for infringement of copyright as well as circumvention of technological protection measures. ISPs to the extent that they are liable are subject to injunctions, fines as well as custodial sentences. Administrative measures include the border measures to stop importation of infringing copies. The Act also provides for precautionary measures.<sup>247</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Delivery up, Injunction, Damages		Section 33, 43
Circumvention of TPMS and ERMI	Technological Measures, Fines and custodial sentences or both		Section 46 (3A) (3A)
Criminal Sanctions	Fines and custodial sentences or both Delivery up		Section 46, 48
Precautionary Measures	Anton Pillar Order, Search and seizure		Section 49, 141
Administrative Action	Border Measures Seizure	NO	Section , 50, 140
Special Regime for online infringement	Fines and Custodial Sentences	NO	Section, 134A
ISP Liability	Injunction, Fines and custodial sentences or both	NO	Section 134A

<sup>247</sup> The Copyright Act (Act No. 5 of 1993) as amended by the Copyright (Amendment) Act 2015 Available at <https://wipo.lex.wipo.int/en/legislation/results?countryOrgs=JM&subjectMatters=11>

## 6. Exceptions and Limitations Applicable to Published Works

The exceptions and limitations include the general exceptions within the scope of fair dealing. The Act prescribes specific exceptions for libraries and archives, educational institutions, visually impaired persons and circumvention of technological protection measures.<sup>248</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing	Reproduction for: - Private study and research - criticism and review - incidental inclusion		Section 52 – 55
Visually impaired	Exhaustive List	Accessible format copies	Specific	Section 65
Libraries and Archives	Exhaustive List	Interpretation of References; Regulations, Copies of Published Work, Copies to Other Libraries, Replacement	Specific	Section 61 – 65
Education	Exhaustive List	Purposes of Instruction or Examination, Anthologies, Recording of Broadcast, Reprographic Copying	Specific	Section 56 – 60
Circumvention of TPMS	List	For archival and preservation purposes making a copy thereof which is incidental to the data	Specific	Section 82A Section 83A

<sup>248</sup> Ibid

# 31. JAPAN



## 1. Introduction

### Reference

Copyright Act (Act No. 48 of May 6, 1970, as amended up to 2020)<sup>249</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: April 18, 1899	Accession: October 1, 2018	Accession: April 25, 2018
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

No.

## 2. Published works protected by Copyright

The Act protects literary works such as novels, articles, lectures and other written works regardless of their form or mode of expression. This would include ebooks and audio books.<sup>250</sup>

## 3. Exclusive Rights

The Act provides for both moral and economic rights. The economic rights include reproduction,<sup>251</sup> communication to the public (transmission to the public) including the right to making available,<sup>252</sup> distribution,<sup>253</sup> exhibition,<sup>254</sup> translation and adaptation.<sup>255</sup> The law complies with the provisions of the Berne Convention and to a certain extent the WCT, as the right of rental is not expressly provided for.

## 4. Transfer of Rights/ works made for hire

Ownership of Copyright initially vests in the author. However, where the author created the work in the course of employment, the copyright vests in the employer unless there is a provision to the contrary.<sup>256</sup> Economic rights, under the Act, may be transferred by operation of the law.<sup>257</sup> Copyright may be transferred in whole or in part.<sup>258</sup> The transfer will only apply to the specific rights transferred.

<sup>249</sup> Available at <https://wipo.lex.wipo.int/en/text/577554>

<sup>250</sup> Article 2 and Article 10

<sup>251</sup> Article 21

<sup>252</sup> Article 23

<sup>253</sup> Article 26

<sup>254</sup> Article 24 and 25

<sup>255</sup> Article 27

<sup>256</sup> Article 15

<sup>257</sup> Article 26 (2)

<sup>258</sup> Article 61

## 5. Enforcement

The Act provides for both civil remedies and criminal sanctions through the court. These are also applicable in the case of circumvention of technological protection measures.<sup>259</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunction, Damages, Destruction, Dispute Resolution		Article 112, 114
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		Article 120-2
Criminal Sanctions	Fines and custodial sentences or both		Article 119, 121, 122, 124
Precautionary Measures		√	
Administrative Action		√	
Special Regime for online infringement	Measure against the leech site, prohibition of private DL		Article 113 2,3,4, 119 2-4,2-5, 120 2-3, 30 1-4),30(2), 119(3-2,3-5)
ISP Liability		√	

<sup>259</sup> Copyright Act (Act No. 48 of May 6, 1970, as amended 2020 Available at <https://wipolex.wipo.int/en/text/577554>

## 6. Exceptions and Limitations Applicable to Published Works

The Act provides for general exceptions and limitations as well as specific provisions for the visually impaired, libraries and archives, education institutions as well as provisions for circumvention of technological protection measures.<sup>260</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair dealing	Temporary reproduction Reprographic reproduction for: -Quotation -Citation -Reporting current events -Personal use -Judicial and administrative purposes -Non-profit performance -Political speech	General	Article 30, 32, 38, 39, 40, 41, 42, 48, 49
Visually impaired		Reproduction of accessible format copies by visually impaired persons and authorised entities		Article 37
Libraries and Archives		Reproduction for: - non- commercial purposes -educational research purposes -preservation, or replacement of damaged or destroyed copies -interlibrary, inter-archival exchange	Specific	Article 31, 42(3), 43
Education		Reprographic reproduction for teaching and examination purposes		Article 33, 34, 35, 36
Circumvention of TPMS		Private use, performing researches or developing technologies		Article 30, 47(3,4,5), 113

<sup>260</sup> *Ibid*

## 32. JORDAN



### 1. Introduction

#### Reference

- Law No. 22 of 1992 on Copyright and its Amendments up to 2005<sup>261</sup>
- Law No. 23 of 2014 Amending Copyright Protection Law (No translation is available, so no amendments are included in this report)

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: April 18, 1899	Accession: October 1, 2018	Accession: April 25, 2018
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

No.

### 2. Published works protected by Copyright

The law protects literary works in any tangible form. These include books, booklets and other written material which would thus cover ebooks and audio books.<sup>262</sup>

### 3. Exclusive Rights

The Act grants both moral and economic rights. The economic rights include reproduction, translation, rental (commercial leasing), importation, distribution, exhibition and communication to the public.<sup>263</sup>

### 4. Transfer of Rights

The law provides for the transfer of rights by operation of the law or testamentary disposition. This has to be in writing and covers part or all the rights in the work.<sup>264</sup> It is important to note that the transfer shall not include the transfer of the original title of the work.

<sup>261</sup> Available at <https://wipolex.wipo.int/en/legislation/details/15109>

<sup>262</sup> Article 3

<sup>263</sup> Article 9

<sup>264</sup> Article 13

## 5. Enforcement

The law provides for both civil and criminal remedies and sanctions for infringement of copyright and these are applicable in the case of circumvention of technological protection measures. It also provides for precautionary measures and administrative actions but does not provide for a special regime for online infringement or ISP liability.<sup>265</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Confiscation, Compensation		Article 46, 47
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		Article 55
Criminal Sanctions	Fines and custodial sentences or both		Article 51, 52
Precautionary Measures	Anton Pillar Order		Article 36, 46
Administrative Action	Seizure		Article 36
Special Regime for online infringement		√	
ISP Liability		√	

<sup>265</sup> Law No. 22 of 1992 on Copyright and its Amendments up to 2005 <https://wipolex.wipo.int/en/legislation/details/15109>

## 6. Exceptions and Limitations Applicable to Published Works

The law provides for general exceptions and limitations as well as specific provisions for libraries and archives and educational institutions. However, there are no exceptions and limitations for circumvention of technological protection measures or for visually impaired persons.<sup>266</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing	Temporary reproduction Reprographic reproduction for: - Citation - Reporting current events - Personal use	General	Article 17
Visually impaired		No exceptions		
Libraries and Archives		Reproduction provided number of copies is limited and does not harm the copyrights of the author	Specific	Article 20
Education		Reproduction for illustration in education institutions Reprographic Copying		Article 17
Circumvention of TPMS		No exceptions		

<sup>266</sup> *ibid*



## 33. KENYA



### 1. Introduction

#### Reference

Copyright Act Cap. 130 of the Laws of Kenya (Act No 12 of 2001)

Copyright Amendment Act No. 20 of 2019

The Copyright (Amendment) Act No. 20 of 2019 made several amendments to the Copyright Law in Kenya to update the law in line with recent developments at the international level on copyright and related rights as well as the developments within the copyright sector in Kenya. The main changes include provisions related to the use of copyright in the digital environment, exceptions and limitations for the visually impaired, libraries and archives as well as educational institutions.

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession March 11, 1993	Signed but not ratified	Ratified June 2, 2017
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

African Regional Intellectual Property Organisation (ARIPO)

### 2. Published works protected by Copyright

The Copyright Act does not provide a specific definition of published works but does list the works that may be eligible for copyright protection once they fulfil the criteria for protection. The works are protected as long as they are reduced to any tangible form.<sup>268</sup>

### 3. Exclusive Rights

The exclusive rights are granted to the author of the work, namely, the person who creates the work. The author has the following exclusive rights, namely the rights of reproduction, distribution, rental, lending, communication to the public, making available.<sup>269</sup> The rental right is subsumed under the distribution right while the right of making available is provided as a distinct right. The law conforms to the provisions of the Berne Convention and the WCT in relation to the rights granted.

<sup>268</sup> Section 22 and Section 2

<sup>269</sup> Section 26

## 4. Transfer of Rights/Works for hire

The first ownership vests in the author of the work. However, where a work is created under employment or under commission, the ownership shall vest in the employer or the person who commissioned the work unless there is a contract to the contrary.<sup>270</sup>

The economic rights that accrue to the author can be transferred to the publishers through contracts, but the moral rights remain with the author. The law provides that all assignments have to be in writing.

The author may transfer the rights to the publisher by assignment or licence.

## 5. Enforcement

The law clearly provides for what constitutes infringing acts (both civil and criminal) and provides for enforcement mechanisms as well as penalties and civil remedies. In addition to the unauthorised exercise of exclusive rights, infringement also includes the circumvention of technological protection measures and removal or alteration of electronic rights management by third parties. The rights holder may opt for either of the two.

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, Damages, Delivery up, Destruction		Section 35
Circumvention of TPMS and ERMI	Fines and custodial sentences		Section 38(3)
Criminal Sanctions	Fines and custodial sentences or both		Section, 37, 38 Section 38(3)
Precautionary Measures	Anton Pillar Orders		
Administrative Action	Inspection and seizure		Section 36
Special Regime for online infringement		√	
ISP Liability	ISP Liability, Safe harbours, take down procedures		Section 35A to 35D

<sup>270</sup> Section 31

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The exceptions and limitations under the Copyright Act may be classified as fair dealing. The Act also sets out a list of exceptions and limitations.

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing	Reproduction for -Judicial Proceedings - political speech - public works - Fair use - Temporary reproduction Transient copies	General	Article 23, 24, 24-2, 35-3
Visually impaired		Sound recordings of literary works	Specific	Article 33
Libraries and Archives		Research and study, self-preservation	Specific	Article 31
Education		Teaching activities Reprographic Copying	Specific	Article 25
Circumvention of TPMS		For actions that would fall under the exceptions and limitations	Specific	Article 104

## 34. LEBANON



### 1. Introduction

#### Reference

Lebanon Law No. 75 of 1999 on the Protection of Literary and Artistic Property.<sup>271</sup>

#### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: February 19, 1946	NO	NO
Implementation	YES	NO	NO

#### Membership to Regional IP Organisation

No.

### 2. Published works protected by Copyright

The Act provides for protection of published works including ebooks and audio books, as protection applies regardless of the form or mode of expression.<sup>272</sup>

### 3. Exclusive Rights

The copyright is entitled to both economic and moral rights.<sup>273</sup> The economic rights include: reproduction, translation, adaptation, transformation and alteration of the work, sale, distribution and rental, importation, public performance, communication to the public as well as importation of the works.<sup>274</sup> The moral rights include the right to paternity and right to integrity, as well as the right to unravel a deal if costs are refunded.

### 4. Transfer of Rights

Economic rights may be transferred in part or in whole either through a contract or by testamentary disposition.<sup>275</sup> Moral rights are not transferable as they are independent of the economic rights, but they may be transferred by testamentary disposition.

<sup>271</sup> Available at <https://wipolex.wipo.int/en/text/128484>

<sup>272</sup> Article 2 and 3

<sup>273</sup> Article 14

<sup>274</sup> Article 15

<sup>275</sup> Article 16 and 17

## 5. Enforcement

Enforcement of the rights is through civil and criminal action through the courts. The rights may also be enforced through administrative actions and precautionary measures such as the Anton Pillar orders. There is no special regime for online infringement or ISP liability. The law does not provide for penalties or sanctions for circumvention of technical protection measures.

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Ex-parte orders, seizure Destruction		Article 84, 86, 91
Circumvention of TPMS and ERMI		√	
Criminal Sanctions	Fines and custodial sentences or both <sup>276</sup>		Article 85
Precautionary Measures	Anton Pillar orders Rightsholder may take the necessary provisional measures to deal with the infringement		Article 81, 82
Administrative Action	Legal Action		Article 89
Special Regime for online infringement		√	
ISP Liability		√	

<sup>276</sup> Fines and custodial sentences will be applied in the case of repeated infringement.

## 6. Exceptions and Limitations Applicable to Published Works

The Act provides for general exceptions and limitations to the exclusive rights, within the limits of fair practice, but has no specific provisions for the visually impaired or for circumvention of technological protection measures.<sup>277</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing	-Reproduction for private use -Use a limited part of any legally published work for purposes of criticism, argumentation or for citation -reproduce or record a specific work for use in judicial or administrative proceedings use short excerpts of works that are displayed or heard during current events in the course of reporting such events in the media	General	Article 23, 24, 29
Visually impaired		No exceptions for visually impaired		
Libraries and Archives		-In case of loss or damage of the original work -To copy, reproduce or record an audio-visual work of special artistic value in order to keep it in the Ministry's archives	General	Article 27, 28
Education		Use a limited part of any legally published work for purposes of education	General	Article 25, 26
Circumvention of TPMS		No exceptions to circumvention of TPMS		

<sup>277</sup> Lebanon Law No. 75 of 1999 on the Protection of Literary and Artistic Property. Available at <https://wipo.lex.wipo.int/en/text/128484>

## 35. LIBYA



### 1. Introduction

#### Reference

Law No. 9 for 1968 Issuing the Copyright Protection Law<sup>278</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: June 28, 1976	NO	NO
Implementation	YES	NO	NO

### Membership to Regional IP Organisation

No.

### 2. Published works protected by Copyright

The copyright law protects literary and artistic works regardless of their expression or form. Ebooks and audio books would thus fall under the scope of copyright protection.<sup>279</sup>

### 3. Exclusive rights applicable to published works

The law provides for both economic and moral rights. The economic rights are the rights to exploit works in any legal way for financial gain. This includes the right of public performance, communication to the public, broadcast, adaptation and translation. The moral rights are the right of attribution and the right of paternity.<sup>280</sup> The law need to be updated to incorporate the additional rights under the WCT.

### 4. Transfer of Rights

The author may transfer the economic rights in part or in full to a third party,<sup>281</sup> but shall not transfer the moral rights which are inalienable and independent of economic rights. The transfer is not absolute and where the author is aggrieved after the transfer, he may resort to court for determination.<sup>282</sup>

<sup>278</sup> Available at <https://wipo.lex.wipo.int/en/text/234540>

<sup>279</sup> Article 1 and 2

<sup>280</sup> Article 5

<sup>281</sup> Article 40

<sup>282</sup> Article 38

## 5. Enforcement

The law provides for judicial enforcement of rights through civil and criminal actions. There are no provisions in relation to precautionary measures, administrative action, special regime on online infringement or ISP liability.<sup>283</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunction, Destruction, Damages, Account for profits, Seizure		Article 44, 46
Circumvention of TPMS and ERMI		✓	
Criminal Sanctions	Fines, Seizure		Article 48
Precautionary Measures		✓	
Administrative Action		✓	
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>283</sup> Law No. 9 for 1968 Issuing the Copyright Protection Law Available at <https://wipo.lex.wipo.int/en/text/234540>



## 6. Exceptions and Limitations Applicable to Published Works

The law has limited exceptions and limitations mainly under fair dealing. There are no exceptions for persons with visual impairment, libraries and archives, research institutions nor in the case of circumvention of technological protection measures.<sup>284</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing	Private non- commercial use, Use for analysis and short quotations Quotations for news reporting and current affairs	General	Article 11, 12, 13, 14
Visually impaired		No exceptions		
Libraries and Archives		No exceptions		
Education		Reproduction of short quotations for teaching activities	General	Article 17
Circumvention of TPMS		No exceptions for Circumvention of TPMS		

<sup>284</sup> Law No. 9 for 1968 Issuing the Copyright Protection Law Available at <https://wipo.lex.wipo.int/en/text/234540>

## 36. MALAYSIA



### 1. Introduction

#### Reference

Malaysia Copyright Act 1987 (Act 332, as at 1 January 2006) as amended in 2020<sup>285</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: June 28, 1990	Accession: September 27, 2012	NO
Implementation	YES	YES	NO

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The Copyright Act protects literary, musical and artistic works. Ebooks and audio books are covered under literary works, as copyright protects the works that have been reduced to any tangible form.<sup>286</sup>

### 3. Exclusive Rights

The exclusive economic rights granted under the act include reproduction in any manner or form, communication to the public, performance, distribution and rental.<sup>287</sup> The moral rights are independent of the economic rights. The law, though compliant with the Berne Convention, and to a certain extent the WCT, needs to ensure that there is a provision for the right of making available, either under the right of communication to the public or as a distinct right.

### 4. Transfer of Rights

Copyright in literary works may be transferred through assignments or licences or through testamentary disposition. The transfer may be in part or in whole.<sup>288</sup>

<sup>285</sup> Malaysia Copyright Act 1987 (Act 332, as at 1 January 2006) as amended in 2020 Available at <http://www.myipo.gov.my/en/copyright-act-1987/>

<sup>286</sup> Section 4 and 7

<sup>287</sup> Section 9 and 13

<sup>288</sup> Section 27

## 5. Enforcement

The law provides for the enforcement of rights through the judicial process including civil and criminal actions. The remedies for infringement are, in the case of civil action, injunctions, damages and account for profit while in the case of criminal action, fines and custodial sentences. There are no specific administrative remedies, but the law provides for special remedies in the case of online infringement as well as limited liability for internet service providers.<sup>289</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, Damages, Account for Profit, Seizure, Statutory Damages		Section 37, 38
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		Section 41, Section 26
Criminal Sanctions	Fines and custodial sentences or both		Section 41, 43
Precautionary Measures	Anton Pillar Orders		Section 44, 45
Administrative Action	Licensing of copyright		Section 27B to 27G
Special Regime for online infringement	Removal of copy or other activities that amount to infringement of works Provision of false information in relation to infringing activities online		Section 43F, 43I
ISP Liability	ISP not liable in the case of: - Transmission, routing and provision of connection - System Caching - Storage and information location tools		Section 43B to 43I

<sup>289</sup> Available at <https://wipo.lex.wipo.int/en/legislation/results?countryOrgs=MY&subjectMatters=11>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing and Fair practice	Research, private studies, criticism, review, reporting of new Quotations for news reporting, current affairs <sup>290</sup>	General	Section 13(2)
Visually impaired	List	Accessible Format Copies for visually impaired persons and persons with hearing disabilities	General	Section 13(2) (gggg)
Libraries and Archives	Fair Practice	Reproduction by National Libraries and State Archives, Public Libraries and Educational and Scientific Institutions	General	Section 13(2) (g) (i)
Education	Fair Practice	For purposes of examinations Reproduction for educational purposes	General	Section 13 (2) (ff)
Circumvention of TPMS	List	Reproduction by Libraries, Archives and Educational institutions for the sole purpose of making a work available.	Specific	Section 36A(2) and 36 B (2)

<sup>290</sup> These exceptions are the use being public and the author is acknowledged as such. See Kenneth D. Crews Study on Copyright Limitations and Exceptions for Libraries and Archives: Updated and Revised (2017 Edition) [https://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=389654](https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=389654) page 269 and 270

## 37. MAURITANIA



### 1. Introduction

#### Reference

- Law No. 2012-038 of July 17, 2012, on Literary and Artistic Property<sup>291</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: October 16, 1972	NO	NO
Implementation	YES	NO	Partially <sup>292</sup>

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The Act protects literary works expressed in any form. These include books, collections and other written works. Ebooks and audio books are protected.<sup>293</sup>

### 3. Exclusive rights

The Act provides for both moral and economic rights. The economic rights include reproduction, making available, rental, communication to the public, translation and adaptation.<sup>294</sup>

### 4. Transfer of Rights

The initial ownership vests in the author. The economic rights may be transferred by operation of the law or testamentary disposition.<sup>295</sup> The transfer of these rights may be total or partial and the exploitation of the transferred rights is limited to the rights specified in the transfer document.<sup>296</sup>

<sup>291</sup> Available at <https://wipolex.wipo.int/en/text/539946>

<sup>292</sup> The law has exceptions that allow access to works by visually impaired persons

<sup>293</sup> Article 3

<sup>294</sup> Article 19

<sup>295</sup> Article 25 and 60

<sup>296</sup> Article 63 and 71

## 5. Enforcement

The Act provides for enforcement through civil remedies and criminal sanctions through the courts. It also provides for administrative measures but makes no provision for a special regime on online infringement, ISP liability and precautionary measures.<sup>297</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunction, Seizure, Suspension		Article 144, 146, 147
Circumvention of TPMS and ERMI		✓	
Criminal Sanctions	Fines and custodial sentences or both		Article 153
Precautionary Measures		✓	
Administrative Action	Seizure		Article 146, 147
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>297</sup> Law No. 2012-038 of July 17, 2012, on Literary and Artistic Property Available at <https://wipolex.wipo.int/en/text/539946>

## 6. Exceptions and Limitations Applicable to Published Works

The Act provides for General exceptions and limitations as well as specific exceptions for visually impaired persons, libraries and archives, education institutions. However, there are no provisions for circumvention of technological protection measures.<sup>298</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair dealing	<ul style="list-style-type: none"> <li>- Personal and family use</li> <li>- Administrative or Legal Proceeding</li> <li>- Speeches</li> </ul>		Article 38, 41
Visually impaired		Reproduction of accessible format copies by authorised entities and visually impaired persons		Article 52
Libraries and Archives		Reproduction for: <ul style="list-style-type: none"> <li>- study or academic research or private;</li> <li>- Preservation, replacement</li> </ul>		Article 42, 42
Education		Pedagogic purposes		Article 40, 41
Circumvention of TPMS		No exceptions		

<sup>298</sup> Ibid

## 38. MEXICO



### 1. Introduction

#### Reference

Federal Law on Copyright (consolidated text published in the Official Journal of the Federation on January 24, 2020)<sup>299</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: May 9, 1967	Ratification: May 18, 2000	Ratification: July 29, 2015
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The Act protects copyright in literary works regardless of the form of expression. Audio and ebooks are protected.<sup>300</sup>

### 3. Exclusive Rights

The Act grants both moral and economic rights. The economic rights include reproduction, public performance, public communication, public display, distribution, importation, public display, adaptation and translation. The right of making available has been included after a law review in 2020.<sup>301</sup>

### 4. Transfer of Rights

The author may transfer his economic rights through exclusive or non-exclusive licences.<sup>302</sup> The initial ownership of rights vests in the author. Rights transfers must be registered with the Public Registry of Copyright to have a binding effect against third parties.<sup>303</sup>

<sup>299</sup> Available at <https://wipolex.wipo.int/en/legislation/details/19901>

<sup>300</sup> Article 5

<sup>301</sup> Article 27

<sup>302</sup> Article 30

<sup>303</sup> Article 32



## 5. Enforcement

The Act provides for enforcement through courts, which can apply both criminal sanctions and civil remedies at the instance of the rightsholder or both. It also provides for precautionary and administrative measures. After the last copyright law review, published in July 2020, the Act now sets out a legal framework for online infringement, including notice and take down obligations and processes, conditions for ISP liability and safe harbours, and fines in case ISPs are liable.

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Damages, Arbitration		Article 216 bis, 217
Circumvention of TPMS and ERMI	Civil and criminal sanctions		Article 232 Bis
Criminal Sanctions	Fines		Article 230, 232-232 Sexies
Precautionary Measures	Suspension of representation, communication and/or public performance		Article 213bis
Administrative Action	Inspection visits, administrative sanctions		Article 210
Special Regime for online infringement	Notice and take down obligations as a condition for safe harbour		114 Octies
ISP Liability	ISP liability subject to safe harbours. ISPs can be fined if not complying with NTD, when contributing to infringement or not complying with duties of information.		114 Octies 232 Quinquies

## 6. Exceptions and Limitations Applicable to Published Works

The law provides for general exceptions and limitations, subject to the three-step test, and sets out specific exceptions for libraries and archives, educational institutions and visually impaired persons.<sup>304</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive list subject to the 3-step test	Temporary reproduction Reprographic reproduction for: - Citation - Reporting current events - Personal use Judicial and administrative purposes	General	Article 148-153
Visually impaired		Reproduction of accessible format copies by authorised entities and visually impaired persons.	General	Article 148(VIII)
Libraries and Archives		Reproduction of one single copy for preservation or replacement of damaged or destroyed copies	General	Article 148(V)
Education		Permits one-time reproduction of a single literary or artistic work that has been disclosed for the private personal use of the person who makes it, without gainful intent. A legal entity may not use this provision, other than an educational or research institution.	General	Article 148(IV)
Circumvention of TPMS		Several exceptions to TPM protection related with reversed engineering, national security, enjoying access granted by existing exceptions (e.g. disabled persons). Also, TPM protection does not apply to works in the public domain.		Article 114 Ter. – 114 Sexies

<sup>304</sup> Ibid

## 39. MOROCCO



### 1. Introduction

#### Reference

- Law No. 2-00 on Copyright and Related Rights (promulgated by Dahir No. 1-00-20 of 9 Kaada 1420 (February 15, 2000))<sup>305</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: June 16, 1917	Accession: April 20, 2011	Ratification: May 15, 2019
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The law provides for *inter alia*, the protection of literary and artistic works irrespective of their form of expression. Therefore, ebooks and audio books are protected as such.<sup>306</sup>

### 3. Exclusive Rights

The exclusive rights granted under the law include economic rights such as the right of reproduction and republication, distribution, communication to the public, adaptation and translation, lending and rental, public performance, broadcasting, hiring and public lending as well as importation.<sup>307</sup> The law does not specifically provide for the distinct right of making available, which should be considered either as part of the right of communication to the public or as a distinct right as provided for in the WCT. The moral rights granted are the right to paternity and integrity.<sup>308</sup>

### 4. Transfer of Rights

The economic rights may be transferred by assignment or licensing, but the moral rights shall only be transmissible by testamentary disposition<sup>309</sup>. Where a work is created during the course of employment, the first owner of the copyright shall be the author. However,

<sup>305</sup> Available at <https://wipolex.wipo.int/en/legislation/details/19766>

<sup>306</sup> Article 3

<sup>307</sup> Article 10

<sup>308</sup> Article 9

<sup>309</sup> Article 39

economic rights shall be deemed to have been transferred to the employer, unless there is a contract to the contrary, even more so if the employee created the work during the course of his/her duties.<sup>310</sup>

## 5. Enforcement

Enforcement involves judicial processes through civil and criminal action and remedies. There are specific administrative actions by the customs authorities to prevent release of suspected infringing goods into the market. The provisions on online infringement relate to the liability of internet service providers. The circumvention of technological protection measures and electronic rights management systems is illegal.<sup>311</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, Destruction, Damages		Article 61, 62
Circumvention of TPMS and ERMI	Fines, Destruction, Closure of premises		Article 64.3, 65
Criminal Sanctions	Fines and custodial sentences or both		Article 64
Precautionary Measures		✓	
Administrative Action	Border measures; suspend release of the infringing goods		Article 60.1-60.3
Special Regime for online infringement		✓	
ISP Liability	Civil or criminal liability, Limitations to liability, take down notices		Article 65.3-65.15

<sup>310</sup> Article 35

<sup>311</sup> Law No. 2-00 on Copyright and Related Rights (promulgated by Dahir No. 1-00-20 of 9 Kaada 1420 (February 15, 2000) Available at <https://wipo.int/en/legislation/details/19766>

## 6. Exceptions and Limitations Applicable to Published Works

The Act provides for general exceptions and limitations within the fair-dealing principle as well as specific exceptions in relation to educational and research institutions, libraries and archives as well as exceptions and limitations in the case of anti-circumvention of technological protection measures.

In the Act available on the WIPO website, there are no specific exceptions and limitations for visually impaired persons, even though Morocco has acceded to the Marrakesh Treaty.

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair dealing	Temporary reproduction Reprographic reproduction for: - Citation - Reporting current events - Personal use - Judicial and administrative purposes	General	Article 12-13, 18, 19
Visually impaired		No exceptions		
Libraries and Archives	List	Reproduction for: - non- commercial purposes - educational research purposes - preservation, or replacement of damaged or destroyed copies - interlibrary, inter-archival exchange	Specific	Article 16
Education	List	Reprographic reproduction for teaching and examination purposes	Specific	Article 15
Circumvention of TPMS	List	Anti-circumvention of TPMS for Libraries, Archives and educational institutions		Article 65.1

## 40. NEPAL



### 1. Introduction

#### Reference

Nepal Copyright Act, 2059 (2002)<sup>312</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: May 9, 1967	NO	NO
Implementation	YES	NO	NO

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The Act provides protection for literary works such as books, pamphlets, illustrations among others. The copyright extends to any work, meaning that ebooks and audio books are also protected.<sup>313</sup>

### 3. Exclusive Rights

According to the Nepal Copyright Act, 2059 (2002), exclusive rights are divided into two, namely economic rights and moral rights. The economic rights include the rights to reproduction, translation, transformation, distribution, importation, public exhibition, rental, broadcast public performance and communication to the public.<sup>314</sup> The moral rights are the rights to be recognised as the author, to object to any distortion or modification of the work and conversely, the right to make amendments.<sup>315</sup> The right of communication to the public does not specifically provide for the right of making available. This may be considered for amendment to ensure that the law is fully compliant with the WCT, in relation to the rights granted and to exploitation of the works online.

<sup>312</sup> Available at <https://wipo.lex.wipo.int/en/text/189128>

<sup>313</sup> Section 2

<sup>314</sup> Section 7

<sup>315</sup> Section 8

## 4. Transfer of Rights

The copyright owner may transfer the economic rights in part or in full to a third party by assignment or licence through contracts. Moral rights can only be transferred by testamentary disposition and are independent of the economic rights.<sup>316</sup>

## 5. Enforcement

The law provides for both civil remedies and criminal sanctions through the judicial system. The penalties for criminal infringement and circumvention of technological protection measures include fines and custodial sentences. There is currently no special regime for online infringement and ISP liability. The district courts have the power to try and settle the matters as well as order the alleged infringer to cease the infringing activity.<sup>317</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Seizure, Destruction		Section 27, 33
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		Section 27
Criminal Sanctions	Fines and custodial sentences or both		Section 27
Precautionary Measures	Settlement and orders to cease and desist		Section 35, 36
Administrative Action	Border measures such as seizure and prevention of importation		Section 30, 34, 35, 36
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>316</sup> Section 24

<sup>317</sup> Copyright Act, 2059 (2002) Available at <https://wipo.lex.wipo.int/en/text/189128>

## 6. Exceptions and Limitations Applicable to Published Works

The Act provides for general exceptions and limitations under fair use, as well as a list of exceptions for libraries and archives, education and research, but no exception for visually impaired persons or in the case of anti-circumvention of technological protection measures.<sup>318</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Use	Reproduction for: - Personal use - Broadcast and communication to the public for news, information and reporting of court proceedings Importation for personal use Public exhibitions		Section 16, 20, 22, 23
Visually impaired		No exceptions for visually impaired		
Libraries and Archives	List	Reproduction of one single copy of works in their collection for: - non- commercial purposes - educational research purposes - preservation, or replacement of damaged or destroyed copies	Specific	Section 19
Education	List	Reproduction of small portion by way of citation for educational purposes	Specific	Section 18
Circumvention of TPMS		No exceptions to circumvention of TPMS		

<sup>318</sup> Ibid



# 41. NETHERLANDS



## 1. Introduction

### References

Netherlands Copyright Act 2018<sup>319</sup>

## Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: October 9, 1912	Ratification: December 14, 2009	EU Ratification October 1, 2018
Implementation	YES	YES	YES

## Membership to Regional IP Organisation

European Intellectual Property Office, European Patent Office

## 2. Published works protected by Copyright

The Netherlands Copyright Act 2018 does not attempt to define what is considered a published work. However, it does provide a list of published works protected by Copyright, which include literary works such as books, brochures, news magazines and other written works. This covers ebooks and audio books.<sup>320</sup>

## 3. Exclusive rights applicable to published works

The Act defines the exclusive rights applicable to published works which include moral and economic rights. The economic rights covered are reproduction, distribution, making available, lending, renting and communication to the public as well as making available.<sup>321</sup> The law has provisions on the rights granted in tandem with the Berne Convention and the WCT.

## 4. Transfer of Rights/Works for Hire<sup>322</sup>

The author of the rights is the person who is indicated as such in the publication. In the absence of such, the person who published the work will be deemed to be the author. The author may transfer the rights to third parties by testamentary disposition or by operation of the law (through assignments or licences).<sup>323</sup>

<sup>319</sup> Available at <https://wipo.lex.wipo.int/en/text/468398> (Had some difficulty with the the translated version)

<sup>320</sup> Article 10

<sup>321</sup> Article 1 and 12

<sup>322</sup> Was difficult to get a meaningful translation

<sup>323</sup> Article 4

In the absence to a contract to the contrary, any works created under employment or on commission shall be deemed to belong to the employer of the person who commissioned the works.<sup>324</sup>

## 5. Enforcement

The law provides for enforcement of rights through civil and criminal actions through the courts. It also provides for administrative actions. The law makes it illegal to circumvent technological protection measures. It is worth noting that there are no specific provisional measures or provisions for ISP liability.

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Compensation, Desist, Seizure, delivery up		Article 26d, Article 26e, 27
Circumvention of TPMS and ERM			Article 29, 29a
Criminal Sanctions	Fines and custodial sentences or both		Article 31, 31a, 31b, 32, 32a
Precautionary Measures		✓	
Administrative Action	Investigation, Seizure		Article 36a, 36b
Special Regime for online infringement	Provisions for TPM and ERMIS		Article 29a, 29b
ISP Liability		✓	

<sup>324</sup> Article 7

## 6. Exceptions and Limitations Applicable to Published Works

The Act provides for general exceptions and limitations, including exceptions for the visually impaired, use by libraries and archives, educational institutions as well as provisions for circumvention of technological protection measures. The author has to be acknowledged as such where the works are used under the said exceptions and limitations and the acts do not infringe on the author's moral rights.<sup>325</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	List	Temporary reproduction Reprographic reproduction for: - Quotation - Citation - Reporting current events - Personal /private use - Judicial and administrative purposes	General	Article 11,15, 16a, 16b, 16c, 16d, 16h,
Visually impaired		Reproduction of accessible format copies by visually impaired persons and authorised entities.	Specific	Article 15j
Libraries and Archives		Reproduction for: - non- commercial purposes - archival needs - restoration and preservation	General	Article 16n 16o
Education		Reproduction for: -Teaching activities -education and scientific development -scientific research	General	Article 16n
Circumvention of TPMS		For uses stated under Articles 15i , 16 , 16b , 16c , 16h, 16n , 17b and 22		Article 29a

<sup>325</sup> <https://wipo.int/en/text/468398>

## 42. NEW ZEALAND



### 1. Introduction

#### References

New Zealand Copyright Act 1994. The law has been updated to include the provisions in the WCT as well as specific provisions for online enforcement and exercise of rights. It is one of the most comprehensive laws on copyright and related rights.<sup>326</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Declaration of Continued Application: April 26, 1928	Accession: December 17, 2018	Accession: October 4, 2019
Implementation	YES	YES	YES <sup>327</sup>

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

Copyright protects literary and artistic works regardless of their form, thus covering ebooks and audio books.<sup>328</sup>

### 3. Exclusive Rights applicable to published works

The Act grants both moral and economic rights. The economic rights include the rights to copy the work (Reproduction), right to distribute, public performance, communication to the public, (same rights are applicable in the case of adaptation) and adaptation.<sup>329</sup> The moral rights include the right of paternity and integrity.

### 4. Transfer of Rights

Moral rights are not transferrable to third parties. Economic rights may be transferred by contract in part or in whole. Where a work is created under commission or employment, the employer or the person who commissioned the work, in the case of computer programmes, painting, drawings, maps, charts, engraving, models, sculpture, film and sound recordings, is deemed to the owner of the copyright, unless there is an agreement to the contrary.<sup>330</sup>

<sup>326</sup> Available at <https://wipo.lex.wipo.int/en/legislation/details/19490>

<sup>327</sup> Copyright (Marrakesh Treaty Implementation) Amendment Act of 2019 Available at <https://wipo.lex.wipo.int/en/legislation/details/19488>

<sup>328</sup> Section 2 and 14

<sup>329</sup> Section 16

<sup>330</sup> Section 21

## 5. Enforcement

The Act makes provisions for civil and criminal actions as well as administrative actions for infringement of copyright. It also provides for remedies in case of online infringement and limits the liability of internet service providers to the extent that they have complied with the law. Circumvention of technological protection measures is actionable through civil and criminal actions.<sup>331</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Damages, Injunctions, Delivery Up		Section 120, 121, 122, 132
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		Section 226A – 226E Section 226G -226H
Criminal Sanctions	Fines and custodial sentences or both		Section 131
Precautionary Measures	Anton Pillar Order		Section 134M
Administrative Action	Border measures including search and seizure, inspection, suspension, forfeiture, and detention of goods. Enforcement through the enforcement officers including search and seizure, investigation and information gathering.		Section 135 – 146 Section 134 and 134A-134S
Special Regime for online infringement	Provides for an overview of file sharing, infringing actions and the penalties such as account Suspension, Fines		Sections 122A to 122U
ISP Liability	ISP Liability, Take Down procedures		Section 92 -92E, 122A – 122U

<sup>331</sup> Copyright Act Available at <https://wipolex.wipo.int/en/legislation/details/19490>

## 6. Exceptions and Limitations Applicable to Published Works

The law as amended provides for comprehensive exceptions and limitations, taking into account the provisions of the WCT and Marrakesh VIP Treaty relating to the use of the works in the digital environment.<sup>332</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing	Incidental copying, reproduction for purposes of review, reporting of news/current affairs, Research and private study, transient copying		Section 41, 42, 43, 43A
Visually impaired	List	Accessible format copies	Specific	Section 69, 69A to 69D
Libraries and Archives	List	Reproduction for: - non- commercial purposes - educational research purposes - preservation, or replacement of damaged or destroyed copies - Communicate digital copies to authorised persons - reproduction of unpublished works - Copying by Librarians for use in other libraries	Specific	Section 50 – 57A
Education	List	Reproduction for teaching and instructional purposes, storage for educational purposes	Specific	Section 44 – 49
Circumvention of TPMS		Encryption research, using a TPM circumvention device on behalf of the user of a TPM work	General	Section 226D

<sup>332</sup> Ibid

## 43. NIGERIA



### 1. Introduction

#### References

Copyright Act (Chapter C.28, as codified in 2004)<sup>333</sup>

#### Treaty Ratification/Accession<sup>334</sup>

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: June 10, 1993	Ratification: October 4, 2017	Ratification: October 4, 2017
Implementation	YES	NO	NO

#### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The Copyright Act does not provide a specific definition of published works, but does list the works that may be eligible for copyright protection once they fulfil the criteria for protection. Under Section 1, the published works protected by copyright include literary or artistic works expressed in any tangible form. This would include ebooks and audio books.<sup>335</sup>

### 3. Exclusive rights

Exclusive rights applicable to published works are detailed in the Copyright Act, which include the exclusive economic rights to reproduce, publish, perform work in public, translation, distribution, rental, communication to the public and publication of the work.<sup>336</sup> The moral rights include the right to claim authorship of the work and object to any distortion or modification of his works.<sup>337</sup> The exclusive rights granted are in line with the provisions of the Berne Convention and the WCT.

### 4. Transfer of Rights

Under the Act, Copyright shall initially vest in the author,<sup>338</sup> but the economic rights are transferable by assignment, or testamentary disposition. In cases where the author creates

<sup>333</sup> Available at <https://wipolex.wipo.int/en/legislation/details/11854>

<sup>334</sup> The law is currently being reviewed to incorporate the provisions of among others, the WIPO Copyright Treaty and the Marrakesh VIP Treaty.

<sup>335</sup> Section 1

<sup>336</sup> Section 5 and 9

<sup>337</sup> Section 11

<sup>338</sup> Section 10

a work in the course of his employment, for instance in the case of a magazine, the author shall be presumed to be the first owner of the work, unless there is a contract to the contrary. Whether the work is created in the course of employment or under commission, the first ownership of the work shall be presumed to belong to the author, unless there is an agreement to the contrary.<sup>339</sup>

## 5. Enforcement

The Act provides for civil and criminal remedies as well as administrative action through border measures by the Customs authority. It includes implementation and administration of the anti-piracy security devices by the Nigerian Copyright Commission. The law also provides for Anton Pillar Orders. However, the Act does not make specific provisions for online infringement and ISP liability.<sup>340</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunction, Damages, Destruction, Delivery Up		Section 15, 16, 18
Circumvention of TPMS and ERMI		✓	Article 29, 29a
Criminal Sanctions	Fines and custodial sentences or both Destruction and delivery up		Section 15, 20, 22, and 30
Precautionary Measures	Anton Pillar Order		Section 25
Administrative Action	Anti-Piracy security devices Border measures; restriction on importation of infringing works Inspection and seizure of infringing works by Copyright Inspectors		Section 21, 38, 44
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>339</sup> Ibid

<sup>340</sup> Copyright Act (Chapter C.28, as codified in 2004) <https://wipolex.wipo.int/en/legislation/details/11854>



## 6. Exceptions and Limitations Applicable to Published Works

The Act provides for exceptions and limitations to the exclusive economic rights, such as the general exceptions under fair dealing and specific exceptions for educational purposes and for visually impaired persons and persons with other disabilities. The latter however are restricted to braille and audio works. There are no specific provisions for anti-circumvention of technological protection measures.<sup>341</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing	Reproduction for research, private use, criticism and review, reporting of current events, and public exhibition Direction for use by government, reproduction for judicial proceedings	General	Second Schedule (a) to (p)
Visually impaired		Reproduction in braille for the blind and audio work for persons with visual impairment or persons with other disabilities	Specific	Second Schedule (s)
Libraries and Archives		For the purpose or research or private study	General	Second Schedule (r)
Education		Reproduction by an approved educational institution for educational purposes	Specific	Second Schedule (f) (g) (h)
Circumvention of TPMS		No exceptions to circumvention of TPMS		

<sup>341</sup> Ibid

## 44. NORWAY



### 1. Introduction

#### References

Copyright Act (Act No. 40 of June 15, 2018, Relating to Copyright in Literary, Scientific and Artistic Works) Consolidated version as at December 2018)<sup>342</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: April 13, 1896	NO	NO
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

European Patent Office

### 2. Published works protected by Copyright

The Norwegian Copyright Act defines works protected by copyright as literary or artistic works of any kind, which are expressions of original and individual creative intellectual effort, and offers a non-exhaustive list of examples. These include all writings in any manner or form of expression, such as paper books, ebooks and audio books.<sup>343</sup>

### 3. Exclusive rights applicable to published works

The Act details the exclusive rights applicable to published works, namely: reproduction, making available to the public, rental and lending, translation and adaptation and distribution.<sup>344</sup> The Act incorporates the provisions of the WCT in relation to the additional rights granted.

### 4. Transfer of rights/Works for hire

The initial copyright vests in the author of the work but the economic rights may be transferred by testamentary disposition or by operation of the law (contracts of assignment or licences). The rights may be transferred in part and the transferee can only exercise those rights that have been transferred. The transfer only covers the rights.<sup>345</sup>

<sup>342</sup> In Dutch with translation tool to English available at <https://wipo.lex.wipo.int/en/legislation/details/18687>

<sup>343</sup> Section 2

<sup>344</sup> Section 3

<sup>345</sup> Section 67

## 5. Enforcement

Enforcement mechanisms include civil and criminal actions for infringement and circumvention of technological protection measures and removal of electronic right management systems, as well as precautionary and administrative measures. The Act provides for a special regime concerning online infringement.<sup>346</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, penalties, compensation, and damages.		§ 78, 79, 81
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		§79, 80
Criminal Sanctions	Fines and custodial sentences or both		§79, 80
Precautionary Measures	Order for withdrawal, removal from commercial circulation, delivery to the owner		§ 82
Administrative Action	Permission to use against reasonable compensation to owner		§83
Special Regime for online infringement	Provisions for online use of works in line with the Electronic Commerce Act Orders to prevent and impede access to a site that has made the works available without authority		§ 88-98
ISP Liability		✓	

<sup>346</sup> Copyright Act (Act No. 40 of June 15, 2018, Relating to Copyright in Literary, Scientific and Artistic Works) Available at <https://wipo.lex.wipo.int/en/legislation/details/18687>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The law provides for exceptions and limitations (free uses) of the works, including general and specific exceptions and limitations in the case of libraries and archives, education institutions, persons with disabilities, exceptions subject to the acknowledgement of the author as such.<sup>347</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	List	Reproduction for: - Private use - Public documents for dissemination - Administrative, legal and judicial proceedings - Reporting of news and current events by media - Use by churches and youth meetings	General	§26, 32, 33, 34, 40
Visually impaired		Use by persons with disabilities Publication in accessible format copies Private use	General	§ 55, 26
Libraries and Archives		Reproduction for - conservation and safety purposes - hedging purposes - research - other special purposes.	Specific	§ 49
Education		For: - Educational activities, - conservation, - safety purposes - other special purposes.	Specific	§43
Circumvention of TPMS		Circumvention permitted in the case of: - research into cryptology. - Private use - Access by legitimate user	Specific	§ 86, 87, 88 to 98

<sup>347</sup> Ibid

## 45. PANAMA



### 1. Introduction

#### References

- Law No. 64 of October 10, 2012, on Copyright and Neighbouring Rights

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: March 8, 1996	Ratification: March 17, 1999	Ratification: February 10, 2017
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

Any intellectual creations, literary, scientific, technical or practical, expressed in a certain form, even when unpublished, are protected by copyright. This includes any written works, such as books, pamphlets and any other work expressed in characters or signs. Ebooks and audio books are thus covered.<sup>348</sup>

### 3. Exclusive rights

Article 44 to 48 set out the regime applicable to the authors' inalienable moral rights (publication, paternity, integrity, oppose modifications, withdrawing from commercial channels dependent on compensation of damages and losses), which can be inherited.

Articles 49 to 57 set out the regime applicable to any economic exploitations, including exclusive rights of modification/adaptations, reproduction, distribution, public performance, communication to the public by any means and making available. Economic rights can be inherited, in the terms set out in articles 75 to 77.

### 4. Ownership & Transfer of Rights

Articles 3 and 41 set out the principle of the author owning any moral and economic rights. Article 9 details the regime applicable to commissioned works: subject to contract, the

<sup>348</sup> Articles 2 and 10.

rights may be assigned to the commissioner in a proportion that cannot exceed those granted to the author. Article 8 describes that in case of employment, the moral and economic rights are vested in the author, with a presumption of assignment to the employer, only to the extent required for execution of the employment contract, unless otherwise regulated by contract.

Articles 78 and 79 set out the principles for transfer or assignment of rights: by written contract, against consideration, for a period of 5 years unless otherwise set out in the contract, which must detail all modalities.

Articles 81 to 86 regulate licensing of rights: exclusive licences are possible subject to full economic exploitation of the work. Authors and other copyright owners are entitled to file a lawsuit to obtain equitable remuneration, in case the consideration set out in the contract is disproportionate. Non-exclusive licences are also possible, subject to contract. In addition, articles 89 to 104 set out special rules for publishing contracts, including consideration and rules for publication.

## 5. Enforcement

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Civil action and precautionary measures: any actions to cease and deter infringement, including seizure, destruction of illegal copies and equipment used to produce them, withdrawal of any licences and permits granted to establishments. Damages Civil penalties		Articles 166 – 175  Articles 172-174 Article 170
Circumvention of TPMS and ERMI	Protected		Article 143 Articles 148-151
Criminal Sanctions	Fines and imprisonment		Articles 170-174
Precautionary Measures	Precautionary measures: any necessary for preservation of evidence and information required to evidence infringement, and to deter infringement.		Articles 171, 175-179
Administrative Action	Administrative authority to sanction CMOs and prevent unauthorised communication to the public  Customs: apprehensions		Article 152  Article 185
Special Regime for online infringement		✓	
ISP Liability		✓	

## 6. Exceptions and Limitations Applicable to Published Works

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive list, subject to restrictive interpretation	reproduction and communication) for: private purposes; education, research, visually impaired (see below for more detail); quotation; press and news		Article 66 - restrictive interpretation  Article 67 – list  Article 70 quotations  Article 71 – press and news
Visually impaired		Regime to serve visually impaired persons as beneficiaries, to produce and distribute accessible format copies. Uses required to enable access by persons with other disabilities are also under an exception, including reproduction and communication.		Article 67, 5 Article 69, 4
Libraries and Archives		Libraries and archives can reproduce one single copy of works in their permanent collection for preservation or replacement of damaged copies, whenever it is not possible to acquire another copy under reasonable commercial conditions.		Article 69, 2
Education		Reproduction by an educational institution for purposes of instruction, limited to employees and students, without any economic or commercial interests. Reprographic reproduction of excerpts by educational institutions for instruction and examination. Reproduction and communication by a research institution for non-profit purposes, in a closed network, so long as licences have been acquired and a secure environment or terminals are used to provide access to persons with research purposes.		Article 67, 3  Article 69, 1  Article 67, 4
Circumvention of TPMS		Exceptions to TPM are related with investigations, reversed engineering and other technical functions.		Articles 145 and 146

## 46. PERU



### 1. Introduction

#### References

Copyright Law (Legislative Decree No. 822, as amended up to Legislative Decree No. 1391)<sup>349</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: May 20, 1988	Accession: July 30, 2001	Ratification: February 2, 2016
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The copyright law provides for protection of published works such as literary works if they are an original expression of an idea in any tangible form. Ebooks and audio books are covered.<sup>350</sup>

### 3. Exclusive rights applicable to published works

The Act grants the author both ample moral<sup>351</sup> and economic rights. The exclusive economic rights granted for published works include exploitation of the work under any form or modality, notably the rights of reproduction, communication to the public, distribution, translation and adaptation, importation and any other form of exploitation that does not fall under the exceptions of the copyright law.<sup>352</sup> The right of making available is contained within the right of communication to the public. The Act has incorporated the provisions of the WCT in relation to the rights granted therein.

### 4. Transfer of rights/Works for hire

The author is deemed to be the owner of the rights and the economic rights may be transferred through contracts for assignments and licences or by testamentary disposition.<sup>353</sup> Subject to certain conditions and unless otherwise agreed in the contract, assignments imply the authors' right to a proportionate participation in the revenues generated by the exploitations of the work.<sup>354</sup>

<sup>349</sup> Available at <https://wipo.lex.wipo.int/en/legislation/details/18762>

<sup>350</sup> Article 2 and 3

<sup>351</sup> Article 21-29

<sup>352</sup> Article 30-37

<sup>353</sup> Article 88-95

<sup>354</sup> Article 92-93



## 5. Enforcement

The law provides for enforcement of the rights through civil and criminal actions as well as precautionary measures and administrative actions. The civil remedies and criminal actions are available for circumvention of technological protection measures as well as for the removal of rights management systems. There are no specific provisions for online infringement or ISP liability.<sup>355</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Seizures of illegal copies and any equipment to produce them Seizure of any revenues deriving from infringing activities Damages (compensation for moral and material damages)		Article 178 Article 197-198 Articles 195-196
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		Article 218
Criminal Sanctions	Fines and custodial sentences or both		Article 216 - 220
Precautionary Measures	-immediate suspension or cessation of the unlawful activity; - confiscation, and withdrawal from commercial distribution circuits, of any copies produced or used and of the material or equipment used for the infringing activity; - inspections or confiscations without prior notice. - border measures, seizure and confiscation.		Article 177-182 Article 199-200 for procedural rules Article 40
Administrative Action	Administrative authority with powers to impose preliminary and precautionary measures to deter copyright infringement (seizure, closure of premises, inspections, destruction of infringing copies)		Article 168-182
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>355</sup> Copyright Law (Legislative Decree No. 822, as amended up to Legislative Decree No. 1391) Available at <https://wipo.lex.wipo.int/en/legislation/details/18762>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The Act provides for general exceptions and limitations. It includes specific provisions for libraries and archives as well as educational institutions, as long as they are for non-commercial purposes and the authors are acknowledged as such. There are no provisions for circumvention of technological devices and removal of rights management systems nor for visually impaired persons.<sup>356</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive list	Reproduction for non- commercial domestic uses, official or religious ceremonies. For quotations from lawfully disclosed works Communication of current affairs	Specific	Article 41  Article 44  Article 45
Visually impaired		Reproduction to produce accessible format copies	Specific	Article 43 G
Libraries and Archives		Reproduction of one single copy of a work from their collection for non- commercial purposes of preservation and replacement of damaged copies, when it is not possible to acquire a new copy under reasonable conditions. -educational research purposes -preservation, or replacement of damaged or destroyed copies -interlibrary, inter-archival exchange	Specific	Article 43 C
Education		<i>Lawful communication for exclusively educational purposes, in the course of the activities of a teaching institution by the staff and students of such institution, provided that the communication does not pursue lucrative, direct or indirect purposes, and the public is composed exclusively by the staff and students of the institution or parents or guardians of students and other people directly related to the activities of the institution. In the event that the communication, including making available, be seen on works reproduced by virtue of the provisions of the subsection a of article 43 of this law, the public shall be limited to the staff and students of the educational institution”.</i>	Specific	Article 41

<sup>356</sup> Ibid

Exceptions and Limitations	Type	What they Enable	General or specific	Article
Education		Reprographic or digital reproduction by educational institutions for instruction and examination, for non-commercial purposes (copies cannot be sold), within justified limits, with attribution.	Specific	Article 43 (a)
Circumvention of TPMS		Specific exceptions such as protection of minors, reversed engineering, databases, acquisitions by libraries and archives.		Article 196 B

## 47. PHILIPPINES



### 1. Introduction

#### Reference

Intellectual Property Code of the Philippines (Republic Act No. 8293) (2015 Edition)<sup>357</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: June 29, 1950	Accession: July 4, 2002	Accession: December 18, 2018
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The Act protects literary and artistic works regardless of their form or mode of expression. Therefore, ebooks and audio books are also protected.<sup>358</sup>

### 3. Exclusive Rights Applicable to Published Works

The Intellectual Property Code of the Philippines (2015) divides exclusive rights into two, namely economic rights and moral rights. The economic rights include reproduction, translation and adaptation, distribution, rental, public display, public performance and communication to the public.<sup>359</sup> The moral rights include the right of integrity and right of paternity.

### 4. Transfer of Rights

The moral rights may be waived under certain circumstances, but they cannot be transferred and are independent of the economic rights. The economic rights may be transferred by testamentary disposition or by assignment or licence through operation of the law.

<sup>357</sup> Available at <https://wipo.lex.wipo.int/en/text/488674>

<sup>358</sup> Section 171.7 and 172

<sup>359</sup> Section 177

## 5. Enforcement

The Act provides for civil and criminal remedies through the courts with appropriate jurisdiction under the law. The damages are limited in time, so no claim can be made more than four years after the infringement took place. The civil actions and criminal sanctions are applicable in the case of circumvention of technological protection measures.<sup>360</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, Damages, (including moral and exemplary damages) account for profits, seizure and destruction		Section 216.1
Circumvention of TPMS and ERMI	Damages, Fines and custodial sentences or both		Section 216.1 Section 217
Criminal Sanctions	Fines and custodial sentences or both		Section 217
Precautionary Measures	Anton Pillar Order		Section 216.2
Administrative Action		✓	
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>360</sup> Intellectual Property Code of the Philippines (Republic Act No. 8293) (2015 Edition). Available at <https://wipolex.wipo.int/en/text/488674>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The exceptions and limitations fall under fair use. These include use by educational institutions, libraries and archives, use by the visually impaired but there are no exceptions for circumvention of technological protection measures.<sup>361</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Use	Private use, making quotations Reproduction and communication to the public for purposes of reporting current events, Use under the direction of government for educational purposes, scientific research, for the national library	General	Section 184, 185
Visually impaired	Fair Use	Accessible format copies	Specific	Section 184
Libraries and Archives	Fair Use	Reproduction for: - non- commercial purposes -educational research purposes -preservation, or replacement of damaged or destroyed copies	Specific	Section 188
Education	Fair use	Inclusion of a work in a publication by way of illustration for teaching purposes For classroom use, scholarship, research		Section 184, 185
Circumvention of TPMS		No exceptions to circumvention of TPMS		

<sup>361</sup> Ibid

## 48. PORTUGAL



### 1. Introduction

#### References

- Code of Copyright and Related Rights (as amended up to Decree-Law No. 100/2017 of August 23, 2017)<sup>362</sup>
- Law No. 109/2009 of September 15, 2009 (Cybercrime Law)

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: March 29, 1911	Ratification: December 14, 2009	EU Ratification on October 1, 2018
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

European Intellectual Property Office and European Patent Office

### 2. Published works protected by Copyright

The Act protects the original literary works in whatever form of expression, including ebooks and audio books.<sup>363</sup>

### 3. Exclusive rights

The Act provides for moral<sup>364</sup> and economic rights. The economic rights include the right of reproduction, fixation, translation and adaptation, public performance, communication to the public, distribution, and making available.<sup>365</sup> These rights have been updated to take into account the rights granted under the WCT and the Berne Convention.

### 4. Transfer of Rights

The author may transfer or assign the rights in part or in whole to third parties. This may be through licences or assignments or by testamentary disposition.<sup>366</sup>

<sup>362</sup> Available at <https://wipolex.wipo.int/en/legislation/details/17387>

<sup>363</sup> Article 1 and 2

<sup>364</sup> Article 9, 56-62

<sup>365</sup> Articles 68

<sup>366</sup> Article 41 to 44

## 5. Enforcement

Copyright enforcement may be done through administrative action and judiciary civil and criminal action. Penalties and remedies are also available in case of circumvention of technological protection measures. The law provides for precautionary measures, as well as a special regime for online infringement.<sup>367</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunction, Damages and Compensation		Articles 210- 211
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		Articles 217-220
Criminal Sanctions	Fines and custodial sentences or both		Articles 195-208
Precautionary Measures	Anton Pillar Order, Inhibit any imminent infringement, seizure, preservation of evidence, rights of information		Article 209, 210 A-210-L
Administrative Action	Seizure, Confiscation, Fines		Articles 205-206, 210
Special Regime for online infringement	Notice and take down procedures, platform liability and safe harbours, Content removal orders, Site blocking orders		Law n.º 7/2004, as amended up to and by Law n.º 40/2020 Article 13 – 17 of Law No. 109/2009
ISP Liability	Yes, with safe harbours per the <i>EU acquis</i>		Law n.º 7/2004, as amended up to and by Law n.º 40/2020

<sup>367</sup> Code of Copyright and Related Rights (as amended up to Decree-Law No. 100/2017 of August 23, 2017, Available at <https://wipo.int/en/legislation/details/17387>



## 6. Exceptions and Limitations Applicable to Published Works

The exceptions and limitations include fair dealing provisions for the general exceptions and limitations. They also provide for exceptions in relation to circumvention of the technological protection measures and electronic rights management systems for the benefit of those who are allowed to use them under the exceptions and limitations.<sup>368</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive list subject to the 3-step test	Temporary reproduction Reprographic reproduction for: - Citation - Reporting current events - Personal use - Judicial and administrative purposes	General	Article 75 (2) (a) - 75 (2)(d), 75 (2) (j), 75 (2) (j) - 75 (2) (n), 75 (2) (q) - 75 (2)(s)
Visually impaired		Reproduction of accessible format copies by authorised entities and visually impaired persons	Specific	Article 75 (2) (i) Article 80
Libraries and Archives		Reproduction for: - non- commercial purposes - educational research purposes - preservation, or replacement of damaged or destroyed copies - interlibrary, inter-archival exchange - digitizing orphan works	Specific	Article 75 (2) (e), 75 (2) (o), 75 (2) (u)
Education		Reproduction of small excerpts by educational institutions for non-commercial instruction and examination activities. Reproduction for inclusion of small fragments in compilations for teaching.	Specific	Article 75 (2) (f), 75 (2) (h)
Circumvention of TPMS		TPMS can be circumvented for access to works that are legitimately acquired by the user, when access is allowed under legal exceptions and limitations. Circumvention does not apply to access via making available right; only to physical copies.		Article 221, 222

<sup>368</sup> Ibid

## 49. REPUBLIC OF KOREA



### 1. Introduction

#### References

- Copyright Act (Act No. 432 of January 28, 1957, as amended up to Act No. 14634 of March 21, 2017)<sup>369</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: May 21, 1996	Accession: March 24, 2004	Ratification: October 8, 2015
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The works protected by copyright include literary and artistic works and it may be presumed to include ebooks and audio books.<sup>370</sup>

### 3. Exclusive Rights Applicable to Published Works

The Act provides for both economic and moral rights. The economic rights include the right to reproduction,<sup>371</sup> public performance,<sup>372</sup> public transmission (communication to the public),<sup>373</sup> right of exhibition,<sup>374</sup> distribution,<sup>375</sup> rental,<sup>376</sup> adaptation and right of production of derivative works.<sup>377</sup> The moral rights include the right of paternity and the right of integrity. The rights granted include the rights required to ensure proper online exploitation and control of the works. This is in line with the provisions of the WCT in addition to the rights granted under the Berne Convention.

### 4. Transfer of Rights

The economic rights of the author may be transferred in whole or in part by assignment or by testamentary disposition.<sup>378</sup> Moral rights are inalienable with the exception of adaptations

<sup>369</sup> Available at <https://wipolex.wipo.int/en/legislation/details/16953>

<sup>370</sup> Article 4

<sup>371</sup> Article 16

<sup>372</sup> Article 17

<sup>373</sup> Article 18

<sup>374</sup> Article 19

<sup>375</sup> Article 20

<sup>376</sup> Article 21

<sup>377</sup> Article 22

<sup>378</sup> Article 45

of works of deceased authors that do not do not damage their honour according to the accepted social norms.

Moral rights are not inalienable.<sup>379</sup>

## 5. Enforcement

The Act provides for criminal and civil action for infringement of copyright and circumvention of technological protection measures.<sup>380</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Destruction, Deletion		Article 125
Circumvention of TPMS and ERMI	Warnings, Deletion or suspension of interactive transmission of illegal reproductions Fines and custodial sentences (labour) or both		Article 133, 133-2, Article 136
Criminal Sanctions	Fines and custodial sentences (labour) or both		Article 136, 133,
Precautionary Measures		✓	
Administrative Action	Administrative fines, Recommendation for corrective action, Seizure		Article 152, 132
Special Regime for online infringement	Suspension of services, provisions for online infringement		Article 103, 103(2), 133
ISP Liability	Take down, correction, destruction and deletion		Article 133(2), 133(3)

<sup>379</sup> Article 14

<sup>380</sup> Copyright Act (Act No. 432 of January 28, 1957, as amended up to Act No. 14634 of March 21, 2017 Available at <https://wipo.lex.wipo.int/en/legislation/details/16953>

## 6. Exceptions and Limitations Applicable to Published Works

The Act provides specific exceptions and limitations and list the circumstances under which the exceptions would be considered. The Act also makes a provision for the application of fair use under the three-step test. For visually impaired persons, the law allows for recording of literary works. The Act also provides for specific exceptions for education as well as for libraries and archives.<sup>381</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing	Reproduction for research, private use, criticism and review, reporting of current events, and public exhibition Direction for use by government, reproduction for judicial proceedings	General	Second Schedule (a) to (p)
Visually impaired		Reproduction in braille or audio work for persons with visual impairment or persons with other disabilities	Specific	Second Schedule (s)
Libraries and Archives		For the purpose or research or private study	General	Second Schedule (r)
Education		Reproduction by an approved educational institution for educational purposes	Specific	Second Schedule (f) (g) (h)
Circumvention of TPMS		Exemption only applies where access to the work is impossible without circumventing technological protection measures. <sup>382</sup>		Article 104bis(1)(5).

<sup>381</sup> Ibid

<sup>382</sup> Kenneth D. Crews Study on Copyright Limitations and Exceptions for Libraries and Archives: Updated and Revised (2017 Edition) [https://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=389654](https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=389654) page 344

## 50. RUSSIA<sup>383</sup>



### 1. Introduction

#### References

Civil Code of the Russian Federation, dated 18.12.2006, as revised up to 18.07.2019.

The Law seeks to regulate copyright and related rights and incorporates provisions of the various international treaties such as the Berne Convention, the WIPO Copyright Treaty and the Marrakesh VIP Treaty, among others.

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: December 9, 1994	Accession: November 5, 2008	Accession: February 8, 2018
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

Copyright protected works include works of literature, regardless of the merits and purpose of the work, by any form of expression. Copyright applies to both published and unpublished works.<sup>384</sup> Russian copyright law also protects ebooks and audio books.

### 3. Exclusive rights

Russian Copyright Law provides for moral rights<sup>385</sup> and economic rights. The economic rights granted give the author the right to authorise or prohibit use of the works by third parties and include the right of reproduction, distribution, public performance, rental, making available, importation as well as broadcasting.<sup>386</sup>

### 4. Transfer of Rights/Works for Hire

The exclusive economic rights initially vest in the author but may be transferred to a third party by contract or by other mechanisms established or recognised under the law.<sup>387</sup>

<sup>383</sup> <https://wipo.lex.wipo.int/en/text/539800>

<sup>384</sup> Article 1259

<sup>385</sup> Article 1265 to 1269

<sup>386</sup> Article 1270

<sup>387</sup> Article 1283 and 1291

## 5. Enforcement

Copyright enforcement is actionable through civil remedies, criminal sanctions and an administrative authority. The law has been modernised over the years to effectively combat online infringement, including through specialised court procedures and an administrative authority responsible for executing court orders either on content removal or site blocking.<sup>388</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, Damages, seizure Compensation for material and non-material damage		Article 1301 Article 1302
Circumvention of TPMS and ERMI	Damages/Compensation		Article 1299 Article 1300
Criminal Sanctions	Fines and custodial sentences or both		Article 1301
Precautionary Measures	Seizure of infringing goods		Article 1301
Administrative Action	Russian Federal Service for Supervision of Communications, Information Technology and Mass Media (Roskomnadzor) executes court orders issued by Moscow City Court on request of copyright owners. Roskomnadzor works with the website owner and the hosting provider towards the removal of the infringing content. In the event that it is not removed, Roskomnadzor requests the Internet access providers to block access to the website within Russia.		Federal Law on Information, Information Technologies and Protection of Information
Special Regime for online infringement	Websites that contain copyright-infringing material may be blocked. (15.2) Permanent blocking of websites containing flagrant violations, where the dissemination of pirated content has been reported repeatedly (15.6).  In 2017, the mechanism for permanently restricting access to certain online locations was also extended to so-called mirror sites of permanently blocked websites.  Rightsholders can request the Moscow City court to issue an order, which will then be executed by Roskomnadzor.		Article 15 (p. 2 and 6) of the Federal Law on Information, Information Technologies and Protection of Information (as amended up to 2017)
ISP Liability	Liability subject to safe harbours		Article 1253.1

<sup>388</sup> Civil Code of the Russian Federation (Part Four, as amended up to Federal Law No. 549-FL of December 27, 2018, and Federal Law No. 177-FL of July 18, 2019) Available at <https://wipo.lex.wipo.int/en/legislation/details/19354>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The law provides for exceptions and limitations based on fair dealing within the parameters of the three-step test.

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations		For personal purposes, Free use of a work permanently located in a place open to free access Free public performance of a lawfully published musical work Free Reproduction of a Work for the Purposes of Law Enforcement		Article 1273, Article 1276, Article 1277, Article 1278
Visually impaired		Accessible format copies for educational, non-commercial purposes including by libraries on behalf of the visually impaired persons		Article 1274
Libraries		For use in public library for non-commercial purposes		Article 1275
Archives		For archiving and preservation, non-commercial use		Article 1275
Education		Free use of a work for informational, scientific, educational or cultural purposes		Article 1274 and Article 1275
Circumvention of TPMS		A provision allows a person who may benefit from a copyright exception to demand of the rightsholder the removal of the technological restriction or to provide an opportunity for use of the work. This provision applies only to certain statutory copyright exceptions, including Article 1274(2), but not Article 1275.		Article 1299 (4)

# 51. SAUDI ARABIA



## 1. Introduction

### References

Copyright Law (promulgated by Royal Decree No. M/41 of 2 Rajab 1424 (August 30, 2003), and amended by Decision of the Council of Ministers No. 536 of 19/10/1439 AH (July 3, 2018))<sup>389</sup>

## Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: December 11, 2003	NO	Accession: November 21, 2018
Implementation	YES	NO	NO

## Membership to Regional IP Organisation

No

## 2. Published works protected by Copyright

The Saudi Arabia Copyright Law (2018) attempts to define published works by providing definitions for the terms Work and Publication. Protected works include literary and artistic works. The works are protected as long as they are original and are expressed in any manner or form.<sup>390</sup>

## 3. Exclusive rights applicable to published works

According to the Saudi Arabia Copyright Law (2018) exclusive rights are divided into moral rights and financial (economic) rights. The moral rights include the right to paternity, the right to integrity, the right to divulgation and the right to withdraw the work from circulation.<sup>391</sup> Economic rights include rights to reproduction and publication, translation, communication to the public, rental as well as exercise of other rights permissible under the copyright law.<sup>392</sup> The law provides an omnibus statement that covers all other rights that may be permissible under copyright law, meaning that rights such as distribution and communication to the public which are not specifically provided for are also covered. The law thus complies with the provisions of the Berne Convention and the WCT in relation to the scope of rights granted.

<sup>389</sup> Available at <https://wipo.lex.wipo.int/en/text/570200>

<sup>390</sup> Article 1 and 2

<sup>391</sup> Article 8

<sup>392</sup> Article 9



## 4. Transfer of Rights

The author may transfer the economic rights in whole or partially to a third party by operation of the law or testamentary disposition.<sup>393</sup> Moral rights are inalienable.

## 5. Enforcement

The infringement of copyright is handled by a Committee and not the courts. The Committee has judicial powers and may impose various sanctions and remedies for copyright infringement. There are no provisions for online infringement or ISP liability. There are no specific provisions for online infringement or ISP liability.<sup>394</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, warnings, shut down of establishment that has participated in the infringement, suspension, seizure		Article 22, 25
Circumvention of TPMS and ERMI	Warning, fines, seizure and custodial sentences		Article 22
Criminal Sanctions	Fines and custodial sentences or both		Article 22
Precautionary Measures	Warnings		Article 22
Administrative Action	Closure of establishment, Seizure		Article 22
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>393</sup> Article 11

<sup>394</sup> Copyright Law (promulgated by Royal Decree No. M/41 of 2 Rajab 1424 (August 30, 2003), and amended by Decision of the Council of Ministers No. 536 of 19/10/1439 AH (July 3, 2018)) Available at <https://wipolex.wipo.int/en/text/570200>

## 6. Exceptions and Limitations Applicable to Published Works

The general exceptions and limitations fall within the realm of fair use. The provisions for educational institutions, libraries and archives are general and there are no specific exceptions for the visually impaired or circumvention of technological protection measures.

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair dealing	Reproduction for personal use, quotation of passages for news and reporting of current affairs	General	Article 15
Visually impaired		No exceptions for visually impaired		
Libraries and Archives	List	Making a copy or two for public libraries or non-commercial documentation centres	General	Article 15 (3)
Education	List	<ul style="list-style-type: none"> <li>• The work is out of print, lost, or damaged.</li> <li>• not be commercial or for profit</li> <li>• shall be restricted to the requirements of the activities</li> <li>• conducting studies and research</li> </ul>	General	Article 15 (3)
Circumvention of TPMS		No exceptions to circumvention of TPMS		

## 52. SENEGAL



### 1. Introduction

#### Reference

Senegal Law No. 2008-09 of January 25, 2008, on Copyright and Related Rights<sup>395</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: June 30, 1962	Ratification: February 18, 2002	NO
Implementation	YES	YES	NO

### Membership to Regional IP Organisation

*Organisation Africaine de la Propriété Intellectuelle: OAPI*

### 2. Published works protected by Copyright

The Senegal Law on Copyright and Related Rights (2008) does not define published works, but copyright protects original works in whatever form of expression. Ebooks and audio books are thus protected under copyright. The protected works include literary and artistic works.<sup>396</sup>

### 3. Exclusive Rights Applicable to Published Works

According to Senegal's Law on Copyright and Related Rights (2008), exclusive rights comprise moral rights<sup>397</sup> and economic rights. The economic rights include reproduction, distribution, rental, communication to the public,<sup>398</sup> translation and adaptation. The moral right includes the right of paternity and integrity. The right of communication to the public includes the right of making available as applicable in the digital environment and applies to derivative works resulting from translation or adaptation.<sup>399</sup> The right of reproduction includes reproduction in any manner or form.<sup>400</sup> The right of distribution for non-digital copies is exhausted once it has been done so within the West African Economic and Monetary Union.<sup>401</sup>

<sup>395</sup> Available at <https://wipolex.wipo.int/en/legislation/details/5764>

<sup>396</sup> Article 5, 6 and 7

<sup>397</sup> Article 27 to 32

<sup>398</sup> Article 33 set out the principles with regard to the exclusive rights

<sup>399</sup> Article 34

<sup>400</sup> Article 35

<sup>401</sup> Article 36

## 4. Transfer of Rights

The author may transfer the economic rights by assignment or other operation of the law. Moral rights, however, are inalienable and perpetual. Initial ownership vests in the author. There is however a presumption of assignment of the rights to the employer or the person who commissioned the work if the work is done under employment or commission and there is no contract to the contrary.<sup>402</sup> The author may transfer the economic rights to a third party. The law allows the author to reconsider his right of exploitation where he has transferred the right, but this is subject to the indemnification of the assignee for the inconvenience caused by this action. If the author subsequently decides to publish his works, he shall be obliged to offer the rights of exploitation in the first instance to the original assignee.<sup>403</sup> The works may be assigned partially or in totality.<sup>404</sup>

## 5. Enforcement

The Act provides for enforcement through civil and criminal actions instituted in the courts and provides for the relevant remedies and sanctions. These apply in the cases of circumvention of technological protection measures. The Act provides for Anton Pillar orders to preserve evidence. All disputes in relation to infringement shall be handled by competent courts.<sup>405</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Compensation, cessation, Destruction		Article 148, 151, 152
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		Article 125, 126
Criminal Sanctions	Fines and custodial sentences or both		Article 142 - 150
Precautionary Measures	Anton Pillar Order		Article 128, 136
Administrative Action		✓	
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>402</sup> Article 18

<sup>403</sup> Article 29

<sup>404</sup> Article 60 to 65 deal with assignment of rights

<sup>405</sup> Law No. 2008-09 of January 25, 2008, on Copyright and Related Rights Available at <https://wipo.lex.wipo.int/en/legislation/details/5764>

## 6. Exceptions and Limitations Applicable to Published Works

The Act provides for general exceptions and limitations in line with fair dealing, as well as exceptions for educational purposes. There are no exceptions for visually impaired persons, libraries and archives nor in the case of circumvention of technological protection measures.<sup>406</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Reference
General Exceptions and Limitations	Fair Dealing	Communication in a private gathering or religious gathering Reproduction for private use, limited editions for electronic database and for information purposes, quotation and analysis of short quotation compatible with fair practice	General	Article 38, 39, 40, 45
Visually impaired		No exceptions for visually impaired		
Libraries and Archives		No exceptions for libraries and archives		
Education	List	Communication to the public and reproduction for non-profit teaching activities	General	Article 42
Circumvention of TPMS		No exceptions to circumvention of TPMS		

<sup>406</sup> ibid

## 53. SERBIA



### 1. Introduction

#### Reference

Law on Copyright and Related Rights ('Official Gazette of the RS' No 104/2009, 99/2011, 119/2012, 29/2016 and 66/2019)<sup>407</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Declaration of Continued Application: September 19, 2006	Accession: March 13, 2003	Accession February 24, 2020
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

European Patent Office

### 2. Published works protected by Copyright

Copyright protects literary works such as books, brochures, articles, translations and other written works in whatever form or mode of expression. Ebooks and audio books are protected.<sup>408</sup>

### 3. Exclusive rights

The Act provides for both moral<sup>409</sup> and economic rights. The economic rights may be exploited by the rightsholder commercially and third parties are required to compensate the rights holder for the use.<sup>410</sup> The economic rights include reproduction<sup>411</sup>, communication to the public, lending, distribution, importation, rental and public performance.<sup>412</sup> The law was recently amended to ensure that it complies with the provisions of the WCT in terms of rights granted to ensure online exploitation.

### 4. Transfer of Rights

The moral rights are inalienable and only transferable by testamentary disposition.<sup>413</sup> The economic rights may be transferred in part or in whole by the author.<sup>414</sup> This may be through licenses or through assignment.<sup>415</sup> The transfer is for the exploitation of the rights and not the copyright. This is in tandem with provision for moral rights.

<sup>407</sup> Available at <https://wipolex.wipo.int/en/legislation/details/19376>

<sup>408</sup> Article 1

<sup>409</sup> Article 14 to 17

<sup>410</sup> Article 19

<sup>411</sup> Article 20

<sup>412</sup> Article 21 to 32

<sup>413</sup> Article 58

<sup>414</sup> Article 61

<sup>415</sup> Article 63 and 64

## 5. Enforcement

The Law provides for both civil remedies and criminal actions through the courts. There are precautionary measures to stop infringement. However, there are no provisions for administrative enforcement, special regime for online infringement and liability of ISPs.<sup>416</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunction, Damages, Compensation, Destruction of infringing copies		Article 205, 206
Circumvention of TPMS and ERMI	Fines		Article 215
Criminal Sanctions	Fines		Article 215-217
Precautionary Measures	Suspension, withdrawal of objects infringing the law, prohibition of acts		Article 210
Administrative Action		✓	
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>416</sup> Law on Copyright and Related Rights ('Official Gazette of the RS' No 104/2009, 99/2011, 119/2012, 29/2016 and 66/2019) Available at <https://wipo.lex.wipo.int/en/legislation/details/19376>

## 6. Exceptions and Limitations Applicable to Published Works

The law provides for general exceptions and limitations as well as specific limitations and exceptions for libraries and archives, educational institutions and visually impaired persons. There are no provisions for circumvention of technological protection measures.<sup>417</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive list subject to 3-step test and attribution	Temporary reproduction Reprographic reproduction for: - Citation for illustration, verification, or reference - Reporting current events - Personal use Judicial and administrative purposes	General	Article 41-43,56,57
Visually impaired		Accessible format copies	Specific	Article 54
Libraries and Archives		Reproduction only for their own archival needs, if the work is reproduced from their own copy and if such reproduction does not intend to achieve direct or indirect property gain	General	Article 45
Education		-Public performance or presentation of published works for instruction activities -Reproduction only for their own archival needs, if the work is reproduced from their own copy and if such reproduction does not intend to achieve direct or indirect property gain - With the obligation to pay royalties: <i>"collection intended for teaching, examination or scientific research, reproduction on paper or similar medium, by photocopying or any form of photographic or similar technique that gives similar results. works, individual short published works in the field of science, literature and music or individual published works of photography, fine arts, architecture."</i>	Specific & General	Article 44  Article 45  Article 55
Circumvention of TPMS		No exceptions		

<sup>417</sup> Ibid



## 54. SINGAPORE



### 1. Introduction

#### References

Singapore Copyright Act (Chapter 63) (Revised Edition 2006, as amended up to the Intellectual Property (Border Enforcement) Act 2018).

Singapore's Copyright Act is currently under a review process that began with a public consultation in 2016. Proposed changes to the Act were published in a policy document in January 2019 and new draft legislation is expected in 2021.

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: September 21, 1998	Accession: January 17, 2005	Accession: March 30, 2015
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The Copyright Act protects original literary and artistic works in any manner or form and would thus be presumed to cover ebooks and audio books.<sup>418</sup>

### 3. Exclusive Rights Applicable to Published Works

The Act provides for the protection of both moral and economic rights. The economic rights include reproduction in any material form, publication of the works, communication to the public and adaptation.<sup>419</sup> The Act was recently amended to make it compliant with the additional provisions in relation to rights granted as per the WCT.

### 4. Transfer of Rights

Ownership of copyright initially vests in the author. Where the works are made under employment or under commission, the ownership vests in the employer or the person who commissioned the works, unless there is a contract to the contrary. The rights may be transferred operation of the law or by testamentary disposition.

<sup>418</sup> Section 7 and 24

<sup>419</sup> Section 26

## 5. Enforcement

The Act provides for enforcement of rights through the judiciary which provides for both civil and criminal action, which are also applicable in the case of circumvention of technological protection measures and electronic rights management systems.

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunction, Damages, Account of Profits, Delivery Up, Disposal		Section 119, 120, 120A
Circumvention of TPMS and ERMI	Destruction, Delivery Up, Anton Pillar Order, Fines and custodial sentences or both		Section 261C, 261G
Criminal Sanctions	Fines and custodial sentences or both		Section 136
Precautionary Measures	Anton Pillar Order, Restriction on Importation		Section 136, 140B
Administrative Action	Arrest, Search Seizure, inspection, forfeiture and disposal of infringing goods		Section 138, 140F, 140G, 140K, 140M
Special Regime for online infringement	Disable access, Content removal		Section 193DB, 193DDA, 193F
ISP Liability	ISP liability, Takedown procedures		Section 193DA

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The Act provides for exceptions and limitations, mainly to the right of reproduction under fair dealing. There are exceptions and limitations in relation to the use of the works by visually impaired persons, libraries and archives, educational institutions as well as for circumvention of technological protection measures.

Exceptions and Limitations	Type	What they Enable	General or specific	Reference
General Exceptions and Limitations	Fair Dealing	Reproduction for: - Private use - Research and study - Criticism and review - Reporting current affairs - Use in Judicial proceedings - Temporary reproductions	Specific	Section 35 to 40A
Visually impaired		Accessible format copies		Section 54, 54A
Libraries and Archives		Reproduction for: - non- commercial purposes -educational research purposes -preservation, or replacement of damaged or destroyed copies -interlibrary, inter-archival exchange	Specific	Section 45, 46, 47, 48
Education		Reproduction for: -Teaching activities -education and scientific development -scientific research 5% of a work for the purposes of education and instruction 10% of a work for private research	Specific	Section 40
Circumvention of TPMS	Fair use	Encryption Research, Fair Use, preventing access by minors to any material on the Internet, identifying and disabling the technological measure, access to a work or other subject-matter or recording of a performance which is not otherwise available to the library, archives or institutions	Specific	Section 261D

## 55. SLOVENIA



### 1. Introduction

#### References

Copyright and Related Rights Act (as amended up to October 22, 2016)<sup>420</sup>

The Act was last amended in 2006 and came into force on January 13, 2007. The Act incorporates the provisions of the EU Council Directives on various copyright issues.

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Declaration of Continued Application: June 12, 1992	Ratification: November 19, 1999	October 1 2018 (By the EU on behalf of Member States)
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

European Union Intellectual Property Office

### 2. Published works protected by Copyright

The Law protects “individual intellectual creations in the field of literature, science and art, which are expressed in any way”, including “written works such as e.g. literary works, articles, manuals, studies and computer programs”. Any published works, including ebooks and audiobooks, are protected.<sup>421</sup>

### 3. Exclusive rights

Both economic and moral rights<sup>422</sup> are granted and regulated under the law. The author or rightsholder is granted the following rights: reproduction,<sup>423</sup> communication to the public,<sup>424</sup> making available,<sup>425</sup> distribution,<sup>426</sup> rental,<sup>427</sup> and public lending.<sup>428</sup> The law has been updated to ensure that the exclusive rights as set out in the WCT are incorporated.

<sup>420</sup> Available at <https://wipolex.wipo.int/en/legislation/details/3704>

<sup>421</sup> Article 5

<sup>422</sup> Article 15-36

<sup>423</sup> Article 23

<sup>424</sup> Article 26, 27, 28, 29, 30, 31

<sup>425</sup> Article 32a

<sup>426</sup> Article 24

<sup>427</sup> Article 25

<sup>428</sup> Article 36 - The public lending right is subject to equitable remuneration.

## 4. Transfer of Rights/Works for Hire

The transfer of rights may be in part or in whole, and must be subject to contract. Under the publishing contract, the author undertakes to transfer the right to reproduction as well as the right to distribute the copies of the work.<sup>429</sup>

## 5. Enforcement

The Law clearly sets out what actions amount to infringement of copyright and provides remedies through the courts which include civil remedies, civil sanctions as well as precautionary measures. There is no specific regime on online infringement or ISP liability.<sup>430</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Damages, (Actual and non-material) Destruction		Article 168
Circumvention of TPMS and ERMI	Technological measures		Article 166a
Criminal Sanctions	Fines		Article 184, 185
Precautionary Measures	Provisional measures Anton Pillar Orders Registration of works		Article 170, 171, 172, 173, 174
Administrative Action		✓	
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>429</sup> Article 85

<sup>430</sup> Copyright and Related Rights Act (as amended up to October 22, 2016) Available at <https://wipolex.wipo.int/en/legislation/details/3704>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

Limitations are subject to the three-step test; the use would be permissible provided that the use is limited to the intended purpose, is compatible with fair practice and does not conflict with the normal use of the work or prejudice the interest of the author.<sup>431</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Exhaustive list subject to the 3-step test	Access to public information Temporary technical reproduction Private use and other internal reproduction Reproduction for quotation Free transformations	Specific	Article 46, 49a, 50, 51, 52, 53
Visually impaired		Accessible format copies	Specific	Article 48a
Libraries and Archives	List	Reproduction for: - preservation, or replacement of damaged or destroyed copies - provided they copy works in their collection and do not aim direct or indirect economic benefits.	General	Article 50 (3)
Education	List	Subject to compensation, reproduce <i>"in textbooks and textbooks intended for instruction, parts of copyright works and individual works"</i>  Public performance and communication to the public of published works for school teaching activities, subject to attribution	Specific	Article 47  Article 49
Circumvention of TPMS and protection of rights management information	Exhaustive list	Special cases of performance of tasks relating to public security, or in order to ensure the correct execution of any official proceedings Subject to payment of remuneration, circumvention is permitted for: - Use by persons with disability - teaching - private or other internal reproduction - performance of official proceedings Ephemeral recordings	Specific	Article 166a,  Article 166c

<sup>431</sup> Ibid

## 56. SOMALIA



### 1. Introduction

#### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	NO	NO	NO
Implementation	NO	NO	NO

#### Membership to Regional IP Organisation

ARIPO - African Regional Intellectual Property Organisation

According to WIPO Lex database and public information, Somalia did not enact a copyright law up to 2020.

## 57. SPAIN



### 1. Introduction

#### References

Consolidated Text of the Law on Intellectual Property, Regularizing, Clarifying and Harmonizing the Applicable Statutory Provisions (approved by Royal Legislative Decree No. 1/1996 of April 12, 1996, and amended up to Royal Decree-Law No. 26/2020 of July 7, 2020)<sup>432</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Ratification: September 5, 1887	Ratification: December 14, 2009	Ratification by the EU October 1, 2018
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

European Intellectual Property Office and European Patent Office

### 2. Published works protected by Copyright

The Copyright Act protects the literary works in any tangible form. These include books and pamphlets, and other printed matter (literary works), E books and audio books are protected under the law.<sup>433</sup>

### 3. Exclusive rights applicable to published works

The Act provides for both moral<sup>434</sup> and economic rights.<sup>435</sup> The economic rights include reproduction in any manner or medium,<sup>436</sup> distribution,<sup>437</sup> communication to the public<sup>438</sup> and translation and transformation.<sup>439</sup> It is important to note that the right of distribution is extended to incorporate the right of making available and likewise, rental and lending are deemed to be means of making available. This means that the Act has implemented the provisions of the WCT in relation to additional rights that need to be considered in the online environment.

<sup>432</sup> Available at <https://wipolex.wipo.int/en/text/577658>

<sup>433</sup> Article 10

<sup>434</sup> Article 14

<sup>435</sup> Article 17

<sup>436</sup> Article 18

<sup>437</sup> Article 19

<sup>438</sup> Article 20

<sup>439</sup> Article 21



## 4. Transfer of Rights/Works for Hire

The rights may be assigned by operation of the law or by testamentary disposition. Moral rights are not transferrable.<sup>440</sup> Works created during the course of employment are presumed to belong to the employer unless there is a contract that provides otherwise.<sup>441</sup>

## 5. Enforcement

The law defines what constitutes infringing actions and provides for remedies through courts which include civil remedies, criminal sanctions as well as precautionary measures. These are also applicable in the case of circumvention of technological protection measures and removal of rights management systems. The criminal remedies are those provided for in the criminal procedure law applicable in Spain.<sup>442</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, damages		Article 138, 140
Circumvention of TPMS and ERMI	Injunctions, damages, seizure, forfeiture		Article 160
Criminal Sanctions	Orders for seizure, forfeiture of revenue, suspension of reproduction, distribution communication to the public, fines and imprisonment or both		Article 143
Precautionary Measures	Orders for Seizure, forfeiture of revenue, suspension of reproduction, distribution communication to the public		Article 141
Administrative Action			
Special Regime for online infringement	Suspension of services provided by intermediaries who facilitate infringement		Article 141
ISP Liability		✓	

<sup>440</sup> Article 48

<sup>441</sup> Article 51

<sup>442</sup> Consolidated Text of the Law on Intellectual Property, Regularizing, Clarifying and Harmonizing the Applicable Statutory Provisions (approved by Royal Legislative Decree No. 1/1996 of April 12, 1996, and amended up to Royal Decree-Law No. 26/2020 of July 7, 2020) Available at <https://wipo.int/en/text/577658>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The exceptions and limitations are based on the EU Directive and provide a list, including under fair dealing. The use of TPMS is limited to allow access by those who would otherwise be excluded under the limitations and exceptions to the exercise of exclusive rights.<sup>443</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	List	Reproduction for: - private use - non-profit use - by press for reporting of current affairs - public communication of lectures, speeches etc.	General	Article 31, 37(1), 35. 38, Art. 33(1) and 35(1), Article 31a (1)
Visually impaired		Reproduction of accessible format copies by authorised entities and visually impaired persons	Specific	Art. 31a(2) Article 31b.
Libraries and Archives		Digitalisation, making available to the public, indexing, cataloguing, conservation or restoration, and making available to the public	Specific	Art. 37(2) Article 37, Article 37a
Education		Reproductions for – - quotations, reviews for illustration for educational purposes	Specific	Article 32, Art. 32(3) and (4)
Circumvention of TPMS		Circumvention to allow access by those with legitimate access	Specific	Article 161

<sup>443</sup> Ibid

## 58. SRI LANKA



### 1. Introduction

#### Reference

Sri Lanka Intellectual Property Act (Act No. 36 of 2003)<sup>444</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Declaration of Continued Application: July 20, 1959	NO	Accession: October 5, 2016
Implementation	YES	NO	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The published works protected under the Copyright Act include literary and artistic works, which are protected irrespective of the form and mode of protection. Ebooks and audio books are thus protected.<sup>445</sup>

### 3. Exclusive rights applicable to published works

The Sri Lanka Intellectual Property Act splits exclusive rights into two, namely moral rights and economic rights. The exclusive economic rights covered include reproduction, translation, adaptation, arrangement and transformation of the work, public distribution, rental, importation, broadcast, communication to the public, public display as well as public performance of the work.<sup>446</sup> The moral rights, which exist independently of the economic rights, are the right of paternity and integrity.<sup>447</sup>

### 4. Transfer of rights

The moral rights are not transmissible during the life of the author but may be inherited after the death of the author.<sup>448</sup> The economic rights may be transferred by assignment through operation of the law or by testamentary disposition.<sup>449</sup>

<sup>444</sup> Available at <https://wipo.lex.wipo.int/en/legislation/details/6705>

<sup>445</sup> Section 5 and 6

<sup>446</sup> Section 9

<sup>447</sup> Section 10

<sup>448</sup> Article 10 (2)

<sup>449</sup> Article 16

## 5. Enforcement

Enforcement of copyright is mainly through the judicial system which provides for civil and criminal actions and Anton Pillar Orders. It also provides for administrative actions by the Director General to determine infringement cases. There are no specific provisions for online infringement or ISP liability.<sup>450</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunction, Damages, Destruction		Section 22
Circumvention of TPMS and ERMI	Damages, seizure		Section 23
Criminal Sanctions	Fines and custodial sentences or both		Section 157, 178
Precautionary Measures	Anton Pillar Order Destruction and surrender and disposal outside the channels of commerce		Section 197, 22
Administrative Action	Determination of infringement cases by the Director General		Section 22, 169 – 174
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>450</sup> Intellectual Property Act (Act No. 36 of 2003) Available at <https://wipo.lex.wipo.int/en/legislation/details/6705>

## 6. Exceptions and Limitations Applicable to Published Works

The law provides for general exceptions and limitations under fair use. It also covers specific exceptions for use by libraries and archives, as well as educational institutions. The Act does not provide exceptions and limitations for the visually impaired or use of circumvention of technological protection measures.<sup>451</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Reference
General Exceptions and Limitations	Fair Use	Reproduction for purposes such as: criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship or research	General	Section 11
Visually impaired		No exceptions for visually impaired		
Libraries and Archives	Fair use	One single copy of works in their collections, for the purposes of study, scholarship or private research, so long as said activities do not serve direct or indirect commercial gain.	Specific	Section 12 (5)
Education	Fair use	Reproduction for teaching purposes subject to conditions: (a) short excerpt of a published work (b) source of work and name of author must be indicated (c) the copy "does not exceed the extent justified by the purpose of reproduction" (d) it may not serve direct or indirect commercial gain.	Specific	Section 12 (4)
Circumvention of TPMS		No exceptions to circumvention of TPMS		

<sup>451</sup> Ibid

## 59. SOUTH AFRICA



### 1. Introduction

#### References

South Africa Copyright Act, 1978 (Act No. 98 of 1978, as amended up to Copyright Amendment Act 2002)<sup>452</sup> The Copyright Act is currently under review.

Intellectual Property Laws Amendment Act 2013 (Act No. 28 of 2013).

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Declaration of Continued Application: October 3, 1928	NO	NO
Implementation	YES	NO	NO

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The Copyright law protects literary works and published editions, reduced to material form, regardless of their mode or form of expression. This covers print books.<sup>453</sup>

### 3. Exclusive rights applicable to published works

The law provides for exclusive moral and economic rights. The exclusive economic rights applicable to published works include reproduction, publication, public performance, broadcasting and adaptation.<sup>454</sup> No distinction is made between moral and economic rights. However, Section 20 provides details on the moral rights applicable to published works.

### 4. Transfer of Rights /Works for Hire

In general, the initial ownership of the work vests in the author of the work. However, where the author creates the work in the course of employment, contract of service, apprenticeship or on commission, the employer or person who hired or commissioned the work shall be deemed to be the first owner in relation to the right of publication.<sup>455</sup>

<sup>452</sup> Available at <https://wipo.lex.wipo.int/en/legislation/details/4067>

<sup>453</sup> Section 1 and 2

<sup>454</sup> Section 6, 7

<sup>455</sup> Section 21

Copyright may be transferred by testamentary disposition or by operation of the law. The assignment or licence may relate to all or only some parts of exclusive rights.<sup>456</sup>

## 5. Enforcement

The law provides for enforcement through the judicial process, where one can institute civil action or lodge a criminal complaint. There are seizure provisions applying to customs and excise authorities. There are no specific provisions for circumvention of technological protection measures nor a special regime for online infringement or ISP Liability in the Copyright Act. However, provisions for online infringement may be found in the Electronic Communications and Transactions Act.<sup>457</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Damages, Interdict reasonable royalty in lieu of damages, special or exemplary damages in appropriate cases		Section 24
Circumvention of TPMS and ERMI			Section 86 of the ECT Act
Criminal Sanctions	Fines and custodial sentences or both, confiscation of the proceeds of crime and/or any asset used to commit crimes		Section 27
Precautionary Measures	Restriction of importation through customs		Section 28
Administrative Action		✓	Section 29 - 36
Special Regime for online infringement			ECT Act
ISP Liability	Safe Harbours, take down		ECT Act

<sup>456</sup> Section 22

<sup>457</sup> Copyright Act, 1978 (Act No. 98 of 1978, as amended up to Copyright Amendment Act 2002) Available at <https://wipo.lex.wipo.int/en/legislation/details/4067>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The law provides for the general exceptions and limitations under fair dealing. It also provides for exceptions for libraries and archives as well as educational institutions. There are no exceptions for visually impaired persons.<sup>458</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	Fair Dealing	Reproduction for - private personal use - criticism and review - reporting news and current affairs - judicial proceedings	General	Section 12, 13
Visually impaired		No specific exceptions for visually impaired		
Libraries and Archives		- Reproduction or distribution made for non-commercial purposes - Collections of works publicly available to researchers and public	Specific	Section 3
Education		Research and private study Personal private use	General	Section 12 (4)
Circumvention of TPMS		Allows for use of anti-circumvention technologies where the person has lawful access to the works	General	Section 28P of the ECT Act

<sup>458</sup> Ibid



## 60. SWEDEN



### 1. Introduction

#### Reference

Sweden Act (1960:729) on Copyright in Literary and Artistic Works (as amended up to Act (2018:1099))<sup>459</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: July 8, 1904	Ratification: December 14, 2009	Ratification by the EU October 1, 2018
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The Sweden Act on Copyright in Literary and Artistic Works (1960) does not attempt to define what is considered a published work. However, under Article 1 they do provide a list of the published works protected by copyright. The Act protects literary works which include maps, drawings, engravings or three-dimensional forms.<sup>460</sup>

### 3. Exclusive rights applicable to published works

The Act provides for exclusive moral and economic rights. The economic rights include the exclusive right to exploit the work through making it available to the public, adaptation, translation, reproduction, communication to the public.<sup>461</sup> The Act provides extensive rights which incorporate the additional rights under the WCT to ensure protection and exploitation of the rights in the digital environment.

### 4. Transfer of rights/ works for hire

The exclusive economic rights may be transferred to third parties through contracts.<sup>462</sup> The author may transfer the right of reproduction to the publisher.<sup>463</sup> It is notable that where the publisher, for any reason, fails to publish the manuscript within two years of receipt, the author then has the right to rescind the contract and the rights so assigned will revert to the author.<sup>464</sup>

<sup>459</sup> Available at <https://wipolex.wipo.int/en/text/532409>

<sup>460</sup> Article 1

<sup>461</sup> Article 2

<sup>462</sup> Article 47, subject to the provisions of Article 3

<sup>463</sup> Article 31

<sup>464</sup> Article 34

## 5. Enforcement

The Act provides for criminal and civil action through the court process. The remedies are also available in the case of circumvention of technological protection measures and removal of electronic rights management systems.<sup>465</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunction, Forfeiture		Article 51, 53a, 53b,
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		Article 57a
Criminal Sanctions	Fines and custodial sentences or both		Article 53, 57
Precautionary Measures	Anton Pillar Order		Article 56a
Administrative Action		✓	
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>465</sup> Sweden Act (1960:729) on Copyright in Literary and Artistic Works (as amended up to Act (2018:1099) Available at <https://wipolex.wipo.int/en/text/532409>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The law provides for general exceptions and limitations as well as specific provisions for access by visually impaired persons, libraries and archives, and circumvention of technological protection measures.<sup>466</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Reference
General Exceptions and Limitations	List	Reproduction for: - private copying and personal use - research	General	Article 11, 12
Visually impaired		Reproduction and communication of accessible format copies by visually impaired persons or authorised entities	Specific	Article 17
Libraries and Archives		For purposes of preservation, completion or research, for single articles or short extracts, for use in reading devices	Specific	Article 16
Education		Educational	General	Article 14
Circumvention of TPMS		Circumvention of technological protection measures by persons with authorised access	Specific	Article 52d

<sup>466</sup> Ibid

# 61. SWITZERLAND



## 1. Introduction

### Reference

Federal Act of October 9, 1992, on Copyright and Related Rights (status as of April 1, 2020)<sup>467</sup>

## Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Ratification: September 5, 1887	Ratification: March 31, 2008	Ratification February 11 2020
Implementation	YES	YES	YES

## Membership to Regional IP Organisation

European Patent Office

## 2. Published works protected by Copyright

The subject matter of copyright protection includes literary and artistic works as well as derivative works. The definition includes ebooks and audio books.<sup>468</sup>

## 3. Exclusive Rights Applicable to Published Works.

The Act sets out moral rights<sup>469</sup> of paternity and integrity and exclusive economic rights, notably the rights of reproduction, distribution, performance, making available, rental, exhibition and broadcast.<sup>470</sup> The Act covers the additional rights required in the digital environment as granted in the WCT, in addition to the rights granted under the Berne Convention, as it sets out that the “author has the exclusive right to decide whether, when and how his work is used”.

## 4. Transfer of Rights

Copyright can be transferred by assignment through operation of the law or by testamentary disposition.<sup>471</sup>

<sup>467</sup> Federal Act of October 9, 1992, on Copyright and Related Rights (status as of April 1, 2020). Available at <https://wipo.lex.wipo.int/en/text/567016>

<sup>468</sup> Article 2

<sup>469</sup> Article 9

<sup>470</sup> Article 9, 10

<sup>471</sup> Article 16

## 5. Enforcement

The law provides for protection under both civil and criminal law. The law provides for precautionary measures as well as administrative procedures through the customs authorities. There are no provisions for online infringement nor for ISP liability.

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Action for declaratory judgement Damages Destruction, Forfeiture, Injunction		Article 61, 62 (2), 63, 65
Circumvention of TPMS and ERMI	Fines and custodial sentences		Article 69a
Criminal Sanctions	Fines and custodial sentences		Article 67, 69,
Precautionary Measures	Court orders to - prohibit an imminent infringement - remedy an existing infringement Anton Pillar Order		Article 62, 65
Administrative Action	Customs border measures including seizure, destruction, damages		Article 75, 76
Special Regime for online infringement	Notice and stay down (NSD)		Article 39 d
ISP Liability	ISPs liable for facilitating infringement/ not complying with NSD obligations		Article 39 d

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The Act provides for the general exceptions and limitations under fair dealing, but has specific provisions in relation to use by visually impaired persons, libraries and archives, educational institutions and use in the case of circumvention of technological protection measures.<sup>472</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Reference
General Exceptions and Limitations	Fair Dealing	Private use, Reproduction for - temporary copies, - quotation for illustrative purposes, - museum exhibition and auction catalogues - reporting current events	General	Article 19, 20, 25, 26, 28
Visually impaired		Accessible format copies	Specific	Article 24c
Libraries and Archives		- educational research purposes - preservation or replacement of damaged or destroyed copies	Specific	Article 22a, 24, 24e
Education		educational research purposes - preservation, or replacement of damaged or destroyed copies	General	Article 19, 24
Circumvention of TPMS		Legally permitted reasons		Article 39a

<sup>472</sup> Ibid

## 62. THAILAND



### 1. Introduction

#### Reference

Copyright Act B.E. 2537 (1994) (as amended up to Copyright Act B.E. 2561 (2018))<sup>473</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: June 17, 1931	NO	Accession: January 28, 2019
Implementation	YES	NO	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The Act provides for protection of literary works expressed in any tangible form. This includes audio books and ebooks.<sup>474</sup>

### 3. Exclusive rights

The Act provides for both moral<sup>475</sup> and economic rights. The economic rights include reproduction, communication to the public, and rental.<sup>476</sup> These are the main rights that are set out in the Act and there may be a need to consider updating them.

### 4. Transfer of rights

The initial ownership of copyright vests in the author. The author may assign the economic rights in part or in whole, for a limited term or for the entire duration of the copyright. Where the contract does not state the length of the term of licensing, the copyright shall revert to the author after ten years.<sup>477</sup>

<sup>473</sup> Available at <https://wipolex.wipo.int/en/text/570066>

<sup>474</sup> Section 4 and 6

<sup>475</sup> Section 18

<sup>476</sup> Section 15

<sup>477</sup> Section 17

## 5. Enforcement

Copyright can be enforced through civil and criminal actions at the courts. These are also applicable in the case of circumvention of technological protection measures. The law provides for precautionary measures as well as administrative actions. It does not provide for a special regime for online infringement or ISP liability.<sup>478</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunction, Damages		Section 64, 65
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		Section 10 of Law 2558
Criminal Sanctions	Fines and custodial sentences or both		Section 69 - 73
Precautionary Measures	Anton Pillar Order		Section 67
Administrative Action	Seizure		Section 67
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>478</sup> Copyright Act B.E. 2537 (1994) (as amended up to Copyright Act B.E. 2561 (2018)) Available at <https://wipo.lex.wipo.int/en/text/570066>



## 6. Exceptions and Limitations Applicable to Published Works

The Act provides for general exceptions and limitations as well as specific exceptions for visually impaired persons, libraries and archives as well as for education. However, there are no exceptions for circumvention of technological protection measures.<sup>479</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Reference
General Exceptions and Limitations	Fair Dealing	Temporary reproduction Reprographic reproduction for: - Citation - Reporting current events - Personal use - Judicial and administrative purposes	General	Section 32 (1) –(5)
Visually impaired		Accessible format copies		Section 1 of Law 2561
Libraries and Archives	List	Reproduction for: - non- commercial purposes - educational research purposes - preservation, or replacement of damaged or destroyed copies - interlibrary, inter-archival exchange	Specific	Section 34
Education	List	Reprographic reproduction for teaching and examination purposes	Specific	Section 32 (6), (7), (8)
Circumvention of TPMS		No exceptions		

<sup>479</sup> Ibid

## 63. TUNISIA



### 1. Introduction

#### Reference

Tunisia Law No. 94-36 of February 24, 1994, on Literary and Artistic Property as amended in 2009<sup>480</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Ratification: September 5, 1887	NO	Ratification: September 7, 2016
Implementation	YES	NO	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The Tunisia Law on Literary and Artistic Property (1994) does not explicitly define what published works are. It instead lists what published works are protected by copyright: These include written and printed works (literary works). Both the original work and any form derived therefrom are protecting, thus covering ebooks and audio books.<sup>481</sup>

### 3. Exclusive Rights Applicable to Published Works

The rightsholder enjoys both pecuniary (economic) and non-pecuniary (moral) rights. The economic rights include the right of reproduction, communication to the public, translation or adaptation and public performance.<sup>482</sup> The moral rights include the right of integrity, paternity and right to withdraw his works from circulation.<sup>483</sup>

### 4. Transfer of Rights

The moral rights which are independent of the economic rights are not transferable by assignment but they may be inherited. The economic rights may be transferred, partially or wholly, by operation of the law or by testamentary disposition.<sup>484</sup>

<sup>480</sup> Available at <https://wipolex.wipo.int/en/legislation/details/3840>

<sup>481</sup> Article 1

<sup>482</sup> Article 2

<sup>483</sup> Article 9

<sup>484</sup> Article 8

## 5. Enforcement

The law provides for judicial enforcement through civil and criminal action. The court may order, *ex parte*, the confiscation, destruction or closure of the premises suspected to be carrying out the infringing actions. There are no special provisions for online infringement or ISP liability.<sup>485</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Damages, Destruction Injunctions Seizure		Article 31, 55
Circumvention of TPMS and ERMI		✓	
Criminal Sanctions	Fines and custodial sentences, orders for seizure and destruction of infringing works		Article 52, 55
Precautionary Measures	Anton Pillar Order		Article 50
Administrative Action	Investigation by police and authorised agencies		Article 54
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>485</sup> Ibid

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The Act provides for general exceptions and limitations under fair dealing. These include private use of works, quotation, and use by education institutions, non-commercial documentation centres, public libraries and scientific institutions with authorisation by the Ministry. There are no exceptions for the visually impaired nor for circumvention of technological protection measures.<sup>486</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Reference
General Exceptions and Limitations	Fair Dealing	Ministry may authorise the use of the works by public libraries, non-commercial documentation centres scientific institutions and teaching establishments.	General	Article 10 (a), 11, 13
Visually impaired		No exceptions for visually impaired		
Libraries and Archives	List	Reproduce a work in one or two specimens, to preserve it or replace it if it would be destroyed, lost or made unusable, for the needs of teaching and without that having a commercial or lucrative goal		Article 12
Education	Fair dealing	Educational purposes		Article 13
Circumvention of TPMS		No exceptions to circumvention of TPMs		

<sup>486</sup> Ibid

## 64. TURKEY



### 1. Introduction

#### References

Law No. 5846 of December 5, 1951, on Intellectual and Artistic Works (as amended up to Law No. 6552 of September 10, 2014)<sup>487</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: October 27, 1951	Accession: August 28, 2008	NO
Implementation	YES	YES	NO

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The copyright act protects literary and artistic works, their creators and other rights holders. It may be presumed that protection extends to ebooks and audio books.<sup>488</sup>

### 3. Exclusive rights applicable to published works

The Act provided for both exclusive moral and economic rights.<sup>489</sup> The economic rights include the right to exploit the works in any manner or form, adaptation, reproduction, distribution (rental and lending), public performance, communication to the public and the right to prohibit distribution which includes the right to lend or rent, and sale of the works<sup>490</sup>. The moral rights, which exist independently of the economic rights, include the right of paternity and right of integrity.

### 4. Transfer of rights

The rights of works created by an employee during the course of employment or under commission shall be exercised by the employer or the person who commissioned the work.<sup>491</sup> The publisher may only exploit the rights as laid out in the contract between the author and the publisher.

<sup>487</sup> Section A of the Law on Purpose, Article 1, Article 1/A. Section B of the Law on Types of Intellectual and Artistic Works. Section C of the Law on Adaptations and Collections. Section D of the Law on Works Made Public and Published Works Also, on publishing contracts: Chapter 8 of the Turkish Code of Obligations, Articles 487-501 Law No. 5846 of December 5, 1951, on Intellectual and Artistic Works (as amended up to Law No. 6552 of September 10, 2014 Available at <https://wipolex.wipo.int/en/legislation/details/17020>

<sup>488</sup> Article 1b

<sup>489</sup> Article 13

<sup>490</sup> Article 20

<sup>491</sup> Article 18

## 5. Enforcement

The Act provides for judicial enforcement through civil and criminal actions. The criminal actions are also applicable in the case of circumvention of technological protection measures. The Act also provides for precautionary measures to preserve evidence as well as administrative action by customs. There is no special regime for online infringement or ISP liability.<sup>492</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, Damages, Destruction		Article 66-70
Circumvention of TPMS and ERMI	Custodial sentence		Article 72
Criminal Sanctions	Fines or custodial sentences		Article 72
Precautionary Measures	Preservation of reproduced copies		Article 77, 81
Administrative Action	Seizure by customs		Article 77
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>492</sup> Law No. 5846 of December 5, 1951, on Intellectual and Artistic Works (as amended up to Law No. 6552 of September 10, 2014 Available at <https://wipolex.wipo.int/en/legislation/details/17020>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The Act provides for general exceptions and limitations, but has no provisions for visually impaired persons, libraries and archives and liability of ISPs.<sup>493</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Reference
General Exceptions and Limitations		Reproduction for: - Public order - Judicial proceedings - Speeches - Quotation for reporting of news and current affairs - Private use		Article 30-33. 35-38
Visually impaired		No exceptions		
Libraries and Archives		No exceptions		
Education		For purposes of education		Article 34
Circumvention of TPMS		No exceptions		

<sup>493</sup> Ibid

## 65. UKRAINE



### 1. Introduction

#### Reference

Law of Ukraine No. 3792-XII of December 23, 1993, on Copyright and Related Rights (as amended up to April 26, 2017)<sup>494</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: July 25, 1995	Accession: November 29, 2001	NO
Implementation	YES	YES	NO

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The Act Protects original literary works in any form or mode of expressions, this includes ebooks and audio books.<sup>495</sup>

### 3. Exclusive Rights

The Act makes provisions for both moral<sup>496</sup> and economic rights. The economic rights include the following: reproduction, public performance, public communication, translation, adaptations, distribution including rental sale or lease and other transfer of rights and importation, among others. The list of rights as provided for in the law is not exhaustive.<sup>497</sup> This allows the introduction of other rights, for instance the right of making available as provided for under the WCT.<sup>498</sup> The exercise of these exclusive economic rights is subject to the exceptions and limitations set out in the law.

### 4. Transfer of Rights/Works for hire

The exclusive economic rights granted under law may be transferred by operation of the law as well as testamentary disposition. The owner may transfer the rights through an assignment to third parties which has to be in writing.<sup>499</sup> The employer shall be deemed to the owner of the rights of a work that is created by an employee during the course of his employment, unless there is a contract between the two stating otherwise.<sup>500</sup>

<sup>494</sup> Available at <https://wipolex.wipo.int/en/legislation/details/16942> (Translation not good)

<sup>495</sup> Article 8

<sup>496</sup> Article 14

<sup>497</sup> Article 15

<sup>498</sup> Article 5 allows for the application of the rules set out in international agreements to which Ukraine is party to. In this case, the WCT.

<sup>499</sup> Article 31

<sup>500</sup> Article 16



## 5. Enforcement

Infringement of copyright is clearly defined under the Act and gives rise to civil, criminal and administrative action at the instance of the rights holder.<sup>501</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, damages, inspection, delivery up, accounts for profit		Article 52
Circumvention of TPMS and ERMI	Injunctions, damages, inspection, publication of infringements, delivery up, accounts for profit		Article 52
Criminal Sanctions		✓	
Precautionary Measures	Inspection and seizure, Anton Pillar Order Investigation, other interim measures		Article 52. Article 53
Administrative Action	Publication of infringements		Article 52
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>501</sup> Law of Ukraine No. 3792-XII of December 23, 1993, on Copyright and Related Rights (as amended up to April 26, 2017) Available at <https://wipo.lex.wipo.int/en/legislation/details/16942>

## 6. Exceptions and Limitations Applicable to Published Works

The law provides for exceptions and limitations for the economic rights which are subject to the acknowledgement of the author as such. The list of general exceptions and limitations is exhaustive within the scope of fair dealing.<sup>502</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Reference
General Exceptions and Limitations	Fair dealing Exhaustive list	Use of quotations for reporting of news, review, education, judicial hearings, administrative proceedings to the extent justified by the purpose Reproduction for personal use	General	Article 21
			Specific	Article 23
Visually impaired	List	Braille format	General	Article 21
Libraries and Archives	Exhaustive list	Reproduction of small excerpts for purposes of research and training, for a specific event, for preservation or replacement of damaged or lost works.	Specific	Article 22
Education	Exhaustive list	Reproduction of excerpts of works for training within the limits set out by the law.	Specific	Article 23
Circumvention of TPMS				

<sup>502</sup> Ibid

## 66. UNITED ARAB EMIRATES



### 1. Introduction

#### References

United Arab Emirates Federal Law No. 7 of 2002 Concerning Copyrights and Neighbouring Rights<sup>503</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: April 14, 2004	Accession: April 14, 2004	Accession: October 15, 2014
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

Works that are protected by copyright under the law include literary and artistic works which cover books, pamphlets and other written work.<sup>504</sup>

### 3. Exclusive rights applicable to published works

The exclusive rights applicable to published works are economic or moral rights. The latter are the right of paternity, integrity as well as the rights to determine the first publication and withdraw the work from circulation. The economic rights are: rights of reproduction, electronic storage, broadcasting and re-broadcasting, transmission, performance, public communication, translation, adaptation, rental and lending rights.<sup>505</sup>

### 4. Transfer of rights

The economic rights may be transferred by operation of the law or by testamentary disposition and the transfer may be in part or in whole.<sup>506</sup>

<sup>503</sup> Available at <https://wipo.lex.wipo.int/en/legislation/details/7>

<sup>504</sup> Article 1

<sup>505</sup> Article 7

<sup>506</sup> Article 9

## 5. Enforcement

The Act provides for enforcement by the judiciary through civil and criminal actions. These are also applicable in the case of circumvention of technological protection measures and removal of electronic rights management information. The Court may order the suspension of release of the goods as a precautionary measure to stop infringement from taking place. There are no specific provisions for online infringement or for ISP liability.<sup>507</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Destruction , Seizure		Article 34, 40
Circumvention of TPMS and ERMI	Fines and custodial sentences or both		Article 38
Criminal Sanctions	Fines and custodial sentences or both Seizure and destruction		Article 37, 38, 40, 41
Precautionary Measures	Suspension of release of goods and seizure		Article 34
Administrative Action	Suspension of release		Article 34
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>507</sup> United Arab Emirates Federal Law No. 7 of 2002 Concerning Copyrights and Neighbouring Rights Available at <https://wipo.int/en/legislation/details/7>

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The general exceptions and limitations fall under fair dealing. The law provides for specific exceptions and limitations in the case of use by libraries and archives as well as educational institutions. There are no provisions for visually impaired persons, nor on online infringement or for ISP liability.<sup>508</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Reference
General Exceptions and Limitations	Fair Dealing	Reproductions for: Quotation for purposes of criticism, use in judicial proceedings, personal non-commercial use	General	Article 22
Visually impaired		No exceptions for visually impaired		
Libraries and Archives		Reproduction for: - non-commercial purposes - educational research purposes - preservation, or replacement of damaged or destroyed copies	Specific	Article 22 (4)
Education		Non-commercial purposes, teaching	Specific	Article 21, 22(8)
Circumvention of TPMS		No exceptions to circumvention of TPMS		

<sup>508</sup> Ibid

## 67. UNITED KINGDOM



### 1. Introduction

#### Reference

- Copyright, Designs and Patents Act 1988 (Chapter 48, incorporating amendments up to The Competition (Amendment etc.) (EU Exit) (No. 2) Regulations 2019))

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Ratification: September 5, 1887	Ratification: December 14, 2009	The UK signed the Marrakesh Treaty on 28 June 2013, but its participation has been on the basis of ratification by the European Union on 1 October 2018. Following Brexit, the UK is taking the necessary steps to ratify and implement the agreement as a separate participating state
Implementation	YES	YES	See above

### Membership to Regional IP Organisation

European Union Intellectual Property Office

### 2. Published works protected by Copyright

Copyright protects, *inter alia*, original literary and artistic works, sound recordings and typographical arrangements of published editions.<sup>509</sup> Accordingly, ebooks and audiobooks are covered.

### 3. Exclusive rights applicable to published works

The Act grants exclusive economic and moral rights. The economic rights granted include: copying (reproduction); issuing copies to the public (distribution); rental or lending, performing, showing or playing in public, communication to the public, making an adaptation.<sup>510</sup> The moral rights include the right of paternity and integrity.

<sup>509</sup> Section 1

<sup>510</sup> Section 16, 17, 18, 18A, 19, 20, 21

## 4. Transfer of rights

The economic rights may be transferred by assignment or by testamentary disposition. Where works are made on commission or in the course of employment, the copyright shall be presumed to be vested in the employer or the person who commissioned the work, if there is no agreement to the contrary.<sup>511</sup>

## 5. Enforcement

The Act provides for civil and criminal action remedies, including in respect of circumvention of technological protection measures. It also sets out precautionary measures, administrative measures and provides for ISP liability.

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, Damages, Delivery up, Forfeiture, Destruction		Section 96, 97, 97A, 99,100,103,114A,114B
Circumvention of TPMS and ERMI	Fines and custodial sentences or both, search warrants, forfeiture		Section 296ZA-296ZG
Criminal Sanctions	Fines and custodial sentences or both, search warrants, delivery up		Section 107,108,109
Precautionary Measures	Infringing copies may be treated as prohibited goods		Section 111
Administrative Action	Damages		Section 149
Special Regime for online infringement	Recognises online infringement including the unauthorised exercise of the right of making available, liability of ISPs		Section 20, 26
ISP Liability	Injunction, Take down		Section 97A

<sup>511</sup> Section 11

## 6. Exceptions and Limitations Applicable to Published Works (Libraries, Archives, Education and Research)

The Act provides for specific exceptions and limitations including the general ones under fair dealing, exceptions for visually impaired persons, educational institutions, libraries and archives as well as circumvention of technological protection measures.

Exceptions and Limitations	Type	What they Enable	General or specific	Reference
General Exceptions and Limitations	Fair dealing	Temporary copies, Reproduction for: - research and private study - Personal/private use - Research and private study - Copies for text and data analysis for non- commercial research - Criticism, review, quotation and news reporting - Fair dealing for reporting of current events - Caricature, pastiche and parody - Incidental inclusion of copyright material	Specific	Section 28-31
Visually impaired		Accessible format copies for personal use, non-commercial use, Accessible format copies by authorised bodies Making intermediate copies	Specific	Section 31A,31B, 31 BA, 31 BB
Libraries and Archives		Reproduction for: - non- commercial purposes - educational research purposes - preservation, or replacement of damaged or destroyed copies - interlibrary, inter-archival exchange	Specific	Section 40A-44A
Education		Reproduction for: - Illustration for instructional purposes - Fair dealing - Anthologies for educational purposes - Copying and use of extracts - Lending copies for educational purposes	Specific	Section 32, 33, 34, 36, 36A
Circumvention of TPMS		Defence under prosecution	General	Section 296ZB(5)



## 68. UNITED STATES OF AMERICA



### 1. Introduction

#### References

U.S. Copyright Act of 1976, 17. U.S.C. §§ 101 et seq. (as amended up to the STELA Reauthorisation Act of 2014)

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Ratification: December 7, 1984	Ratification: September 14, 1999	Ratification: February 8, 2019
Implementation	YES	YES	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The Act provides for protection of literary works which are embodied in a tangible medium. This includes books, periodicals and manuscripts, among others. Ebooks and audio books are covered.

The US Copyright Act of 1976 then provides a list of published works protected by Copyright which includes original literary works in any tangible form now known or to be developed at a later date.<sup>512</sup> This provides flexibility in light of the constant changes in technology.

### 3. Exclusive rights applicable to published works

The Act details the exclusive rights applicable to published works. These include the economic rights such as: reproduction, adaptation, distribution by way of rental, lending or lease, publication, performance, and display.<sup>513</sup> The moral rights may be waived by the rights holder and include the right of integrity and paternity as set out in section 106A of the Act.

<sup>512</sup> Section 102

<sup>513</sup> Section 107 to 122

## 4. Transfer of Rights/Works for Hire

The initial ownership of a work vests in the author. In the case where the work has been made for hire, under employment or on commission, the employer or the person who commissioned the work shall be deemed to be the owner of the copyright, unless there is an agreement to the contrary.<sup>514</sup>

The rights holder may transfer the economic rights by means of a conveyance, operation of the law or through a testamentary disposition upon the demise of the rightsholder.

## 5. Enforcement

The Act provides for enforcement of rights through the courts using civil and criminal actions, which are also applicable in the case of circumvention of technological protection measures and removal of rights management information systems.

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, Damages		Section 502, 504 1203
Circumvention of TPMS and ERMI	Injunctions, Damages, Fines and custodial sentences or both		Section 1203
Criminal Sanctions	Fines and custodial sentences or both		Section 506, 1203
Precautionary Measures	Preliminary injunctions		
Administrative Action	Impounding and disposition		Section 503
Special Regime for online infringement	Content removal, Site Removal		Section 512
ISP Liability	ISP Liability, Take Down Procedures		Section 512

<sup>514</sup> Section 201

## 6. Exceptions and Limitations Applicable to Published Works

The Act provides for general exceptions and limitations in line with the doctrine of fair use which provides that the fair use shall be determined based on the following factors:

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work

The Act also provides for specific exceptions in relation to use of works by visually impaired persons, libraries and archives, and for educational institutions. There are specific provisions in relation to circumvention of technological protection measures.

Exceptions and Limitations	Type	What they Enable	General or specific	Reference
General Exceptions and Limitations	Fair use	Reproduction for purposes of <ul style="list-style-type: none"> <li>- Criticism</li> <li>- Comment</li> <li>- News reporting</li> <li>- Teaching, scholarship or research</li> </ul>	General	Section 107
Visually impaired		Reproduction in accessible format copies by authorised persons and entities.	Specific	Section 121
Libraries and Archives		Reproduction for: <ul style="list-style-type: none"> <li>- non- commercial purposes</li> <li>- educational research purposes</li> <li>- preservation, or replacement of damaged or destroyed copies</li> <li>- interlibrary, inter-archival exchange</li> </ul>	Specific	Section 108
Education		For non-profit educational purposes	Specific	Section 107, 110
Circumvention of TPMS		Shall not apply to persons who are users of a copyrighted work which is in a particular class of works, if such persons are, or are likely to be in the succeeding 3-year period, adversely affected by virtue of such prohibition in their ability to make no infringing uses of that particular class of works under this title, as determined under subparagraph, Encryption research	Specific	Section 1201

## 69. VENEZUELA



### 1. Introduction

#### Reference

Law on Copyright (of August 14, 1993)<sup>515</sup>

### Treaty Ratification/Accession

	Berne Convention	WCT	Marrakesh VIP Treaty
Accession/ Ratification	Accession: September 20, 1982	NO	Accession: October 2, 2019
Implementation	YES	NO	YES

### Membership to Regional IP Organisation

No

### 2. Published works protected by Copyright

The Copyright Act protects all creative intellectual property works, including literary and artistic works, irrespective of their form of expression. Ebooks and audio books are thus protected.<sup>516</sup>

### 3. Exclusive rights applicable to published works

The Act provides for both moral and exclusive economic rights.<sup>517</sup> The economic rights include the right of communication to the public, reproduction, broadcasting, transmission, distribution, adaptation, transformation and arrangement.<sup>518</sup>

### 4. Transfer of rights

Copyright may be transferred by testamentary disposition or by assignment. Works created on commission or under employment shall be deemed to belong to the person who commissioned the works or employer, unless there exists a contract to the contrary.<sup>519</sup> Publishing contracts are regulated in detail, including terms, conditions, modalities, obligations of exploiting the work. Unless the contract sets out otherwise, the publisher only gets the right to publish and distribute the work, while the author retains all other rights.<sup>520</sup>

<sup>515</sup> Available at <https://wipolex.wipo.int/en/text/130135>

<sup>516</sup> Section 1

<sup>517</sup> Chapter II, Section 1

<sup>518</sup> Articles 23, 39-42

<sup>519</sup> Article 59

<sup>520</sup> Article 71-85

## 5. Enforcement

The Act provides for judicial enforcement through civil and criminal actions. The law does not provide for penalties for circumvention of technological protection measures, precautionary measures, special regime for online infringement and liability of ISPs.<sup>521</sup>

Enforcement	Applicability		Reference
	YES	NO	
Civil Remedies	Injunctions, Destruction, Damages		Article 109-117
Circumvention of TPMS and ERMI		✓	
Criminal Sanctions	Custodial sentences and fines		Article 119-124
Precautionary Measures		✓	
Administrative Action	Penalties of 50% of tariff, in case of unauthorised exploitation of rights managed by CMOs		Article 64
	Prohibition of unauthorised communication to the public		Article 118
Special Regime for online infringement		✓	
ISP Liability		✓	

<sup>521</sup> Law on Copyright (of August 14, 1993, Available at <https://wipo.lex.wipo.int/en/text/130135>)

## 6. Exceptions and Limitations Applicable to Published Works

The law provides for general exceptions and limitations and specific provisions for libraries and archives as well as for education. However, there are no exceptions for visually impaired persons nor for use for circumvention of technological protection measures.<sup>522</sup>

Exceptions and Limitations	Type	What they Enable	General or specific	Article
General Exceptions and Limitations	List	Reproduction for private use, judicial proceedings, purposes of study, quotation, reporting of news and current affairs.	General	Article 43, 44, 46, 47
Visually impaired		No exceptions		
Libraries and Archives		Reproduction of single copies of works in their collections for: - non- commercial purposes -preservation, or replacement of damaged or destroyed copies -interlibrary, inter-archival exchange, So long as it is not possible to acquire a new copy under reasonable commercial conditions.	Specific	Article 44, 4
Education		Reproduction by reprographic means, for the purpose of teaching or the holding of examinations in educational institutions, provided that there are no profit-making purposes and to the extent justified by the purpose, of articles, brief extracts from works or lawfully published short works, on condition that the use is in keeping with proper practice; Copying for study purposes.	Specific	Article 44 (3)  Article 44 (8)
Circumvention of TPMS		No exceptions		

<sup>522</sup> Ibid

## References

1. <https://wipolex.wipo.int/en/main/legislation> WIPO Lex
2. European Union Parliamentary Research Service; Study on Copyright Law in the EU: Salient features of Copyright Laws Across EU Member States. [https://www.europarl.europa.eu/RegData/etudes/STUD/2018/625126/EPRS\\_STU\(2018\)625126\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2018/625126/EPRS_STU(2018)625126_EN.pdf) ( Last accessed January 2020)
3. Kenneth D. Crews, *Study on Copyright Limitations and Exceptions for Libraries and Archives*, World Intellectual Property Organization





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