

Morocco: Copyright, Law, 15/02/2000 - 1420, No. 2-00

Law No. 2-00 on Copyright and Related Rights*

(of February 15, 2000)

PART I

COPYRIGHT

Chapter I

Introductory Provisions

Definitions

1. The terms used in this Law and their different variants shall have the following meanings:

(1) The "author" means the natural person who has created the work; any reference in this Law to the economic rights of authors, when the original owner of these rights is a natural person or legal entity other than the author, shall be extended to cover the rights of the original rights' owner.

(2) The "work" means any literary or artistic creation under the terms of Article 3 below.

(3) A "collective work" means a work created by several authors at the initiative of a natural person or legal entity which shall publish it, subject to its own responsibility and in its own name, and in which the personal contributions of the authors who have helped to create the work shall be based on the whole of the work, without it being possible to identify the different contributions and their authors.

(4) A "collaborative work" means a work which two or more authors have helped to create.

(5) A "derived work" is to be understood as any new creation which has been designed and produced from one or more pre-existing works.

(6) A "composite work" means the new work in which a pre-existing work is incorporated without the collaboration of the author of that work.

(7) An "audiovisual work" means a work which consists of a series of

interlinked images which give an impression of movement, accompanied by sounds or otherwise, which can be seen and, where it is accompanied by sounds, able to be heard. This definition shall also apply to cinematographic works.

(8) A "work of applied art" means an artistic creation with a utilitarian function or incorporated in an article of use, be it a work of craftsmanship or one that is produced by industrial processes.

(9) A "photographic work" means the recording of a light or other radiance on any carrier on which an image is produced or from which an image may be produced, irrespective of the nature of the technique (chemical, electronic or other) by which the recording is made.

An image extracted from an audiovisual work shall not be regarded as a photographic work, but as a part of the audiovisual work.

(10) "Expressions of folklore" means productions of elements characteristic of the traditional artistic heritage developed and preserved on the territory of the Kingdom of Morocco by a community or by individuals recognized as meeting the traditional artistic expectations of this community and comprising:

(a) popular tales, popular poetry and mysteries;

(b) songs and popular instrumental music;

(c) popular dances and shows;

(d) productions of the popular arts such as drawings, paintings, sculptures, terracottas, potteries, mosaics, works on wood, metallic objects, jewels, textiles, costumes.

(11) A "work inspired by folklore" is to be understood as any work composed with the aid of elements borrowed from the Moroccan traditional cultural heritage.

(12) The "producer" of an audiovisual work means the natural person or legal entity that takes the initiative and responsibility for producing the work.

(13) A "computer program" means a series of instructions expressed in words, codes, diagrams or any other form which, once they are incorporated in a carrier that can be deciphered by a machine, are able to accomplish a particular task or obtain a specific result, using a computer or an electronic method able to process the information.

(14) "Databases" means any collection of works, data or other independent elements, arranged systematically or methodically, and which are individually accessible by electronic or any other means.

(15) The term "published" refers to a work or a phonogram, copies of which have been made available to the public with the author's consent in the case of a work, or with the producer's consent in the case of a phonogram, for the sale, hiring, public loan or any other transfer of ownership or possession, in sufficient quantities to meet the normal needs of the public.

(16) "Broadcasting" means the communication of a work, performance or phonogram to the public by wireless transmission, including satellite transmission.

(17) "Reproduction" means the manufacture of one or more copies of a work or phonogram, or part thereof, in any form whatsoever, including the sound and visual recording, and permanent or temporary storage, of a work or phonogram, in electronic form.

(18) The "reprographic reproduction" of a work means the manufacture of facsimile copies of originals or copies of the work by means other than painting, for example, photocopying. The manufacture of facsimile copies that are reduced or enlarged shall also be regarded as "reprographic reproduction".

(19) "Hiring" means the transfer of ownership of the original or a copy of a work or phonogram for a fixed duration, for profit-making purposes.

(20) "Public performance" means the fact of reciting, playing, dancing, or otherwise performing a work, either directly, or by means of any device or process-or, in the case of an audiovisual work, showing the images thereof in series or making audible the sounds which accompany it-in one or more places where persons external to a family circle and those immediately around it are or may be present, irrespective of whether these persons are or may be present in the same place and at the same time, or in different places and at different times, where the performance may be perceived, without there necessarily being public communication as defined in paragraph (22) below.

(21) "Performing a work" means reciting, playing, dancing or performing the work, either directly or by means of any device or process or, in the case of an audiovisual work, showing the images of the work in any order or making the sounds accompanying it audible.

(22) "Public communication" means the wire(less) transmission of the image, sound, or image and sound, of a work, performance or phonogram such that these may be perceived by persons external to a family circle and those immediately

around it, located in one or more places sufficiently far from the place of origin so that, without this transmission, the image or sound cannot be perceived in this (these) place(s), irrespective of whether these persons may perceive the image or sound in the same place and at the same time, or in different places and at different times which they have chosen individually.

(23) "Performers" means actors, singers, musicians, dancers and other persons who perform, recite, sing, declaim, play or perform in any other manner artistic and literary works or expressions of folklore.

(24) A "copy" means the result of any act of reproduction.

(25) A "phonogram" means any equipment carrier containing sounds reproduced directly or indirectly from a phonogram and which incorporates all or part of the sounds fixed on this phonogram.

(26) A "phonogram producer" means the natural person or legal entity that takes the initiative and assumes responsibility for the first fixation of the sounds originating from a performance, or other sounds or representations of sounds.

(27) The "fixation" means the incorporation of images, images and sounds, or a performance thereof, allowing them to be seen, reproduced or communicated by means of a device.

Chapter II Subjects of Protection

General Provisions

2. All authors shall enjoy the rights specified in this Law in relation to their literary or artistic works.

The protection resulting from the rights specified in the previous paragraph (hereinafter "protection") shall begin as soon as the work is created, even if the work is not fixed on an equipment carrier.

Works

3. This Law shall apply to the literary and artistic works (hereinafter "works") which are original intellectual creations in the literary and artistic field, such as:

(a) works expressed in writing;

- (b) computer programs;
- (c) lectures, addresses, sermons and other works consisting of words or expressed orally;
- (d) musical works, irrespective of whether they contain accompanying texts;
- (e) dramatic and dramatico-musical works;
- (f) choreographic works and dumb shows;
- (g) audiovisual works including cinematographic works and videograms;
- (h) works of fine art, including drawings, paintings, engravings, lithographs, printing on leather and all other works of fine art;
- (i) works of architecture;
- (j) photographic works;
- (k) works of applied art;
- (l) illustrations, maps, plans, sketches and three-dimensional works relating to geography, topography, architecture or science;
- (m) expressions of folklore and works inspired by folklore;
- (n) drawings of garment industry designs.

Protection shall be independent of the mode or form of expression, quality and aim of the work.

Protection of the Title of the Work

4. Provided that it is original, the title of a work shall be protected in the same way as the work itself.

Derived Works and Collections

5. The following shall also be protected as works and shall enjoy the same protection:

- (a) translations, adaptations, musical arrangements and other transformations of works and expressions of folklore;

(b) collections of works, expressions of folklore or of simple features or data, such as encyclopedias, anthologies and databases, irrespective of whether they are reproduced on a machine-usable carrier or in any other form which, through the choice, coordination or arrangement of the subjects, constitute intellectual creations. The protection of the works referred to in subparagraph (a) should not be prejudicial to the protection of the pre-existing works used to produce these works.

Ancient Manuscripts

6. Under this Law protection shall be granted to the publication of the ancient manuscripts held in public libraries or the filings of public or private archives, without, however, the author of this publication being able to oppose the same manuscripts being republished according to the original text.

Protection of Expressions of Folklore

7.-(1) Expressions of folklore shall be protected for the following uses, where those uses have a commercial aim or lie outside the conventional or customary framework:

(a) reproduction;

(b) communication to the public through representation, performance, broadcasting or cable transmission, or any other means;

(c) adaptation, translation or any other modification;

(d) fixation of expressions of folklore.

(2) The rights granted in paragraph (1) shall not apply when the acts referred to in this paragraph relate to:

(a) the use made by a natural person solely for personal reasons;

(b) the use of short extracts for the purposes of reporting current events, to the extent justified by the object of the report;

(c) use solely for direct teaching or scientific research purposes;

(d) the cases where, under Chapter IV of Part I, a work can be used without the authorization of the author or rights' owners.

(3) In all printed publications, and in relation to any public communication of an identifiable expression of folklore, the source of this expression of folklore shall be indicated in an appropriate manner and in accordance with correct usage, by mentioning the name of the community or locality from which the expression of folklore used comes.

(4) The right to authorize the acts referred to in paragraph (1) of this Article shall belong to the body responsible for the protection of copyright and related rights.

(5) The sums received in relation to this Article shall be allocated for professional purposes and to cultural development.

Unprotected Works

8. The protection specified by this Law shall not be extended to:

(a) official texts of a legislative, administrative or judicial nature, nor to their official translations;

(b) current events;

(c) ideas, processes, systems, operating methods, concepts, principles, discoveries or simple data, even if these are stated, described, explained, illustrated or incorporated in a work.

Chapter III

Protected Rights

Moral Rights

9. Independently of his economic rights and even after the transfer of those rights, the author of a work shall be entitled to:

(a) claim the paternity of his work, in particular the right to have his name displayed on the copies of his work and, to the extent possible and in the customary manner, in relation to any public use of his work;

(b) remain anonymous or use a pseudonym;

(c) oppose any distortion, destruction or other modification of his work, or any other encroachment on the same work, which might be prejudicial to his honor or reputation.

Economic Rights

10. Subject to the provisions of Articles 11 to 22 below, the author of a work shall have the exclusive right to carry out or authorize the following acts:

- (a) republish and reproduce his work;
- (b) translate his work;
- (c) prepare adaptations, arrangements or other transformations of his work;
- (d) carry out or authorize the hiring or public loan of the original or copy of his audiovisual work, his work incorporated in a phonogram, computer program, database or musical work in graphical form (scores), irrespective of the owner of the original, or of the copy subject to hiring or public loan;
- (e) carry out or authorize the public distribution, by sale, hiring, public loan or any other transfer of ownership or possession, of the original or copies of his work, distribution of which has not been authorized by him;
- (f) perform his work in public;
- (g) import copies of his work;
- (h) broadcast his work;
- (i) communicate his work to the public by cable or by any other means.

The hiring and loan rights specified in the fourth point of the first paragraph shall not apply to the hiring of computer programs, in cases where the program itself is not the essential aim of hiring.

Exercise of Economic Rights by Dependents

11. The rights specified in the previous Article shall be exercised by the dependents of the author of the work or by any other natural person or legal entity to which these rights have been accorded.

The body responsible for the protection of copyright and related rights may exercise the above rights in cases where the persons cited in the previous paragraph do not exist.

Chapter IV

Limitation of Economic Rights

Free Reproduction for Private Purposes

12. Notwithstanding the provisions of Article 10 above, and subject to those in the second paragraph of this Article, it shall be permitted, without the authorization of the author or payment of a fee, to reproduce a lawfully published work solely for the private use of the user.

The provisions of the previous paragraph shall not apply to:

- (a) the reproduction of architectural works in the form of buildings or other similar constructions;
- (b) the reprographic reproduction of a whole book or a musical work in graphical form (scores);
- (c) the reproduction of the whole or parts of databases in digital form;
- (d) the reproduction of computer programs apart from in the cases specified in Article 21 below;
- (e) any other reproduction of a work which appears to hamper the normal use of the work or would unjustifiably prejudice the author's legitimate interests.

Temporary Reproduction

13. Notwithstanding the provisions of Article 10 above, the temporary reproduction of a work shall be permitted provided that this reproduction:

- (a) takes place in the course of a digital transmission of a work or act designed to make a work stored in digital form perceptible;
- (b) is carried out by a natural person or legal entity authorized, by the copyright owner or by the law, to carry out the said transmission of the work or act designed to make it perceptible;
- (c) is of an accessory nature to the transmission, takes place as part of normal use of the material and is automatically deleted without allowing the electronic recovery of the work for purposes other than those specified in subparagraphs (a) and (b) of this Article.

Free Reproduction in the Form of a Citation

14. Notwithstanding the provisions of Article 10 above, it shall be permitted,

without the author's authorization or the payment of a fee, to cite a lawfully published work in another work, provided that the source and author's name are indicated, where this name appears in the source, and that such a citation complies with correct use and its scope does not exceed that justified by the aim to be achieved.

Free use for Education

15. Notwithstanding the provisions of Article 10 above, it shall be permitted, without the author's authorization or the payment of a fee, but provided that the source and author's name are indicated, where this name appears in the source, to:

(a) use a lawfully published work as an illustration in publications, broadcasts, or sound or visual recordings intended for educational purposes;

(b) reproduce by reprographic means, for educational purposes or for examinations in educational institutions whose activities are not designed directly or indirectly to generate commercial profit, and to the extent justified by the aim to be achieved, individual articles lawfully published in a journal or periodical, short extracts of a lawfully published work or a lawfully published short work.

Free Reprographic Reproduction by Libraries and Archive Departments

16. Notwithstanding the provisions of Article 10 above, and without the authorization of the author or any other copyright owner, a library or archive departments whose activities are not designed directly or indirectly to generate commercial profit may produce, by means of reprographic reproduction, individual copies of a work:

(a) when the reproduced work is an article, short work, or short extracts of a written work other than computer programs, with or without illustrations, published in a collection of works or an edition of a journal or periodical, or when the aim of the reproduction is to respond to the request of a natural person;

(b) when the production of such a copy is intended to preserve it and, if necessary, (where it appears to have been lost, destroyed or rendered unusable), to replace it in a permanent collection of another library or other archive department, or to replace copies lost, destroyed or rendered unusable.

Deposit of Reproduced Works in Official Archives

17. Without prejudice to the right belonging to the author to obtain equitable remuneration, reproductions constituting exceptional documentation and a copy of recordings of cultural value, may be stored in official archives designated for this purpose by the government authority responsible for cultural affairs.

A list of the reproductions and recordings referred to above shall be drawn up by joint decree of the government authority responsible for communication and that in charge of cultural affairs.

Free Use for Judicial and Administrative Purposes

18. Notwithstanding the provisions of Article 10 above, it shall be permitted, without the author's authorization or the payment of a fee, to republish a work intended for judicial or administrative proceedings, to the extent justified by the aim to be achieved.

Free Use for Information Purposes

19. Notwithstanding the provisions of Article 10 above, it shall be permitted, without the author's authorization or payment of a fee, but subject to the obligation to indicate the source and author's name, where this name appears in the source, to:

(a) reproduce in the press, broadcast or communicate to the public an economic, political or religious article published in journals or periodical collections of the same nature, provided that the right of reproduction, broadcasting or public communication is not expressly reserved;

(b) reproduce or make available to the public, for reporting purposes, current events by means of photography, cinematography, video or public cable broadcasting or communication, a work seen or heard during such an event, to the extent justified by the information aim to be achieved;

(c) reproduce in the press, broadcast or communicate to the public, political speeches, lectures, addresses, sermons or other works of the same nature delivered in public, as well as speeches made during trials, to the extent justified by the aim to be achieved, whereby the authors retain the right to publish collections of these works.

Free Use of Images of Works Permanently Located in Public Places

20. Notwithstanding the provisions of Article 10 above, it shall be permitted, without the author's authorization or payment of a fee, to republish,

broadcast or communicate to the public by cable an image of a work of architecture, a work of fine art, a photographic work and a work of applied art which is permanently located in a place open to the public, apart from if the image of the work is the main subject of such a reproduction, broadcast or communication and if it is used for commercial purposes.

Free Reproduction and Adaptation of Computer Programs

21. Notwithstanding the provisions of Article 10 above, the legitimate owner of a copy of a computer program may, without the owner's authorization or payment of a separate fee, produce a copy or adaptation of this program, provided that this copy or adaptation is:

(a) required for the use of the computer program for purposes for which the program has been obtained;

(b) required for archive purposes and in order to replace the lawfully held copy in cases where the work appears to have been lost, destroyed or rendered unusable.

No copy or adaptation may be produced for purposes other than those specified in the previous two subparagraphs of this Article and any copy or adaptation shall be destroyed in cases where prolonged possession of the computer program copy ceases to be lawful.

Free Temporary Recording by Broadcasting Organizations

22. Notwithstanding the provisions of Article 10 above, a broadcasting organization may, without the author's authorization or payment of a separate fee, make a temporary recording, by its own means and for its own broadcasts, of a work which it has the right to broadcast.

The broadcasting organization shall destroy this recording within six months of it being produced, unless an agreement on a longer period has been reached with the author of the work thus recorded. However, without such an agreement a single copy of this recording may be kept solely for archive storage purposes.

Free or Public Performance

23. Notwithstanding the provisions of Article 10 above, it shall be permitted, without the author's authorization or payment of a fee, to perform a work publicly:

(a) during official or religious ceremonies, to the extent justified by the

nature of these ceremonies;

(b) as part of the activities of an educational institution, for the staff and students of such an institution, provided the public consists solely of staff and students of the institution, or parents and supervisors, or other persons directly linked to the institution's activities.

Import for Personal Reasons

24. Notwithstanding the provisions of Article 10 (g) above, the import of a copy of a work by a natural person, for personal reasons, shall be permitted without the authorization of the author or of any other owner of the copyright in the work.

Chapter V

Duration of Protection

General Provisions

25. Unless otherwise specified in this chapter, the economic rights in a work shall be protected during the author's lifetime and for 50 years after his death.

Moral rights shall have no time limitation, and shall be exempt from prescription, inalienable and transferable to dependents in the case of death.

Duration of Protection for Collaborative Works

26. The economic rights in a collaborative work shall be protected during the lifetime of the last surviving author and for 50 years after his death.

Duration of Protection for Anonymous and Pseudonymous Works

27. The economic rights in a work published anonymously or under a pseudonym shall be protected until the end of a 50-year period from the end of the calendar year when such a work was lawfully published for the first time or, where this has not occurred in the 50 years since the work was produced, 50 years from the end of the calendar year when such a work was made available to the public or, where this has not occurred in the 50 years since the production of this work, 50 years from the end of the calendar year of such production.

If, prior to the expiry of said period, the identity of the author is revealed

unambiguously, the provisions of Article 25 or 26 above, shall apply.

Duration of Protection for Collective and Audiovisual Works

28. The economic rights in a collective or audiovisual work shall be protected for a period of 50 years from the end of the calendar year when such a work was lawfully published for the first time or, where this has not occurred in the 50 years since the work was published, 50 years from the end of the calendar year when such a work was made available to the public or, where this has not occurred in the 50 years since the production of the work, 50 years from the end of the calendar year of such production.

Duration of Protection for Works of Applied Art and Computer Programs

29. The economic rights in a work of applied art and computer programs shall be protected until the end of a 25-year period from the time of production of such a work.

Calculation of Deadlines

30. In this chapter, any deadline shall expire at the end of the calendar year during which it would normally lapse.

Chapter VI Ownership of Rights

General Provisions

31. The author of a work shall be the first owner of the moral and economic rights in his work.

Ownership of the Rights in Collaborative Works

32. The co-authors of a collaborative work shall be the first joint owners of the moral and economic rights in this work. However, if a collaborative work can be divided into independent parts (i.e. if the parts of this work can be reproduced, performed or otherwise used separately), the joint authors may enjoy independent rights in these parts, since they are the joint owners of the rights of the collaborative work considered to be a whole unit.

Ownership of the Rights in Collective Works

33. The first owner of the moral and economic rights in a collective work

shall be the natural person or legal entity, at the initiative and under the responsibility of which the work has been created in his name.

Ownership of the Rights in Composite Works

34. The composite work shall be the property of the author who has produced it, subject to the rights of the author of the pre-existing work.

Ownership of the Rights in Works Created as Part of an Employment Contract

35. In the case of a work created by an author on behalf of a natural person or legal entity (hereinafter "employer") as part of an employment contract and his employment, unless otherwise specified in the contract, the first owner of the moral and economic rights shall be the author, but the economic rights in this work shall be considered to have been transferred to the employer to the extent justified by the employer's usual activities at the time the work is created.

Ownership of the Rights in Audiovisual Works

36. In the case of an audiovisual work, the first owners of the moral and economic rights shall be the joint authors of this work (such as the director, scriptwriter and music composer). The authors of pre-existing works adapted or used for audiovisual works shall be considered to have been assimilated to the joint authors.

Unless otherwise stipulated, the contract concluded between the producer of an audiovisual work and the joint authors of this work—other than the authors of the musical works included therein—as regards the contributions of the joint authors to the production of this work shall transfer to the producer the economic rights of the joint authors in the contributions.

However, unless otherwise stipulated in the contract, the joint authors shall retain their economic rights in the other uses of their contributions insofar as these contributions can be used separately from the audiovisual work.

Remuneration for the Joint Authors of an Audiovisual Work

37. Remuneration for the joint authors of an audiovisual work shall be determined according to the procedures for its use at the time the production contract is concluded or when the work is used.

In cases where the audiovisual work has been disclosed in a place accessible

to the public or has been communicated, irrespective of the means, in return for payment of a fee, or by means of hiring with a view to private use, the joint authors shall be entitled to remuneration, in proportion to the fees paid by the user.

If the disclosure of the work is free of charge, the remuneration paid in this case shall be determined on the basis of a flat rate. The organization responsible for the protection of copyright and related rights shall determine the percentages of the proportional flat-rate remuneration, based on the procedures for use referred to in the first and second paragraphs above.

Presumption of Ownership: the Authors

38. In order for the author of a work, in the absence of proof to the contrary, to be considered such and consequently to be entitled to institute legal proceedings, it shall be sufficient for his name to be displayed visibly on the work.

In the case of an anonymous work, or a work created using a pseudonym—apart from where the pseudonym leaves no doubt as to the author's identity—the publisher whose name appears on the work shall, in the absence of proof to the contrary, be considered to represent the author and, in this capacity, to be entitled to protect and ensure respect for the author's rights. This paragraph shall cease to apply when the author discloses his identity and provides evidence of his capacity.

Chapter VII

Transfer of Rights and Licenses

Transfer of Rights

39. Economic rights shall be transferable between living people and by effect of the law as a result of death.

Moral rights shall not be transferable between living people but by effect of the law as a result of death.

The complete or partial transfer of the copyright in a work inspired by folklore, or the exclusive license relating to such a work, shall be valid only if it has received the approval of the organization responsible for the protection of copyright and related rights.

The global transfer of future works shall be null and void.

Licenses

40. The author of a work may grant licenses to other persons for the purpose of acts covered by his economic rights. These licenses may be exclusive or non-exclusive.

A non-exclusive license shall authorize its owner to carry out, in the permitted manner, the acts to which it relates at the same time as the author and other owners of non-exclusive licenses.

An exclusive license shall authorize its owner, to the exclusion of all others including the author, to carry out, in the permitted manner, the acts to which it relates.

Form of Transfer and License Contracts

41. Unless otherwise specified, the economic rights transfer or license contracts for the acts covered by the economic rights shall be drawn up in writing.

Extension of Transfers and Licenses

42. Transfers of economic rights and licenses for acts covered by such rights may be limited to certain specific rights, as well as in relation to the aims, duration, territorial scope and extent or means of use.

The failure to mention the territorial scope for which economic rights are transferred or the license granted to carry out acts covered by such rights shall be considered to limit the transfer or license to the country in which either one or the other is granted.

The failure to mention the scope or means of use for which economic rights are transferred or the license granted for acts covered by economic rights shall be considered to limit the transfer or license to the scope and means of use necessary for the aims envisaged at the time the transfer or license is granted.

Alienation of Originals or Copies of Works, Transfer and License Concerning Copyright in these Works

43. An author who transfers by alienation the original or a copy of his work shall be considered, unless otherwise stipulated in the contract, not to have ceded any of his economic rights, nor to have granted any license for acts covered by economic rights.

Notwithstanding the previous paragraph, the legitimate acquirer of an original or copy of a work shall, unless otherwise stipulated in the contract, be entitled to present the original or copy directly to the public.

The right specified in the second paragraph shall not be extended to persons who have taken possession of originals or copies of a work by means of hiring or any other means, without having acquired ownership thereof.

Chapter VIII

Provisions Specific to the Publishing Contract

Definition

44. The publishing contract shall be the contract by means of which the author of a work or his dependents shall transfer, subject to specific conditions, to a person known as the "publisher", the right to produce or to have produced a number of copies of the work, whereby the publisher shall cover the costs of publication and distribution.

General Provisions

45. Subject to being declared null and void, the contract shall be drafted in writing and shall provide, for the benefit of the author or his dependents, remuneration proportionate to the products used or flat rate remuneration.

Subject to the provisions governing the contracts concluded between minors and interdicted persons, personal consent shall be mandatory, even where this relates to a legally incapable author, unless the incapacity is physical in nature.

The provisions of the second paragraph of this Article shall not be applicable when the publishing contract is endorsed by the author's dependents.

Obligations of the Author

46. The author shall guarantee to the publisher:

- the peaceful and, unless otherwise specified, exclusive exercise of the transferred right;
- that this right is respected and defended against any infringement that might be made against it;
- the opportunity to produce and distribute the copies of the work.

Unless otherwise stipulated, the subject of the publication provided by the author shall remain his property. The publisher shall be responsible for it for a period of one year after the production has been completed.

Obligations of the Publisher

47. The publisher shall be obliged to:

- carry out the production or have this done, according to the conditions specified in the contract;
- make no change to the work, without the written authorization of the author;
- to display on each of the copies the name, pseudonym or mark of the author, unless otherwise stipulated;
- supply any proof designed to establish the accuracy of his accounts.

The author may require, at least once a year, the production by the publisher of a report mentioning:

- (a) the number of copies produced during the financial year with details of the date and size of the print runs;
- (b) the number of copies in stock;
- (c) the number of copies sold by the publisher and the number unused or destroyed inadvertently or in cases of *force majeure*;
- (d) the amount of the fees due and, where applicable, that of the fees paid to the author;
- (e) the sale price charged.

Remuneration

48. The contract may provide either for remuneration in proportion to the products used or for flat-rate remuneration.

As regards bookshop publishing, the remuneration may be a flat rate for the first edition, with the author's formal agreement, in the following cases:

1. scientific or technical works;

2. anthologies and encyclopedias;
3. prefaces, annotations, introductions, presentations;
4. illustrations of a work;
5. limited deluxe editions.

For works published in journals and periodical collections of any kind and by press agencies, the remuneration for the author bound to the information company by a work or service hiring contract may also be set at a flat rate.

Cases of Termination of the Publishing Contract

49. In cases where the publisher becomes insolvent or is the subject of a bankruptcy adjudication, the publishing contract shall not be terminated.

If the receiver or the party responsible for liquidation continues the venture subject to the conditions of the commercial code, he shall assume the rights and obligations of the publisher.

If the business capital has been transferred at the request of the receiver or the party responsible for liquidation, subject to the terms of the commercial code, the acquirer shall be subrogated to the assignor.

If, within a period of one year from the date of the insolvency hearing, the venture has not been continued and the business capital has not been transferred, the author may request the contract to be terminated.

The publishing contract shall be automatically terminated when, owing to a misale or for any other reason, the publisher destroys all copies.

The contract may be terminated by the author independently of the cases provided for by the common law when, on a formal demand granting him a suitable deadline, the publisher has not published the work or, where a print run has been sold out, has not republished the work.

An edition shall be considered to have been sold out if two requests for delivery of copies addressed to the author have not been satisfied within three months.

If the work is incomplete at the time of the author's death, the contract shall be settled as regards the incomplete part of the work, except in the case of agreement between the publisher and the author's dependents.

PART II

RIGHTS OF PERFORMERS, PRODUCERS OF PHONOGRAMS AND BROADCASTING ORGANIZATIONS (RELATED RIGHTS)

Chapter I

Rights of Authorization

Rights of Authorization of Performers

50. Subject to the provisions of Article 54 to 56, the performer shall have the exclusive right to carry out or authorize the following acts:

(a) the broadcast of his performance, apart from when the broadcast is made from a fixation of the performance other than a fixation made under Article 55 or when a rebroadcast is made, as authorized by the broadcasting organization which first shows the performance;

(b) the communication to the public of his performance, apart from when this communication is made from a fixation or broadcast of the performance;

(c) the performance which has not yet been fixed;

(d) the reproduction of a fixation of his performance;

(e) the first distribution to the public of a fixation of his performance, through sale or any other transfer of ownership;

(f) the public hiring or loan of his performance;

(g) the public provision, by wire(less) means, of his performance fixed on a phonogram, so that access is provided for all persons from the place and at the time of their individual choosing.

In the absence of agreement to the contrary:

(a) the authorization to broadcast does not imply the authorization to allow other broadcasting organizations to show the performance;

(b) the authorization to broadcast does not imply the authorization to fix the performance;

(c) the authorization to broadcast and to fix the performance does not imply

the authorization to reproduce the fixation;

(d) the authorization to fix the performance and to reproduce this fixation does not imply the authorization to broadcast the performance from the fixation or its reproductions.

Irrespective of his economic rights, and even after these rights have been transferred, the performer shall retain the right, as regards his live sound performances fixed on phonograms, to request to be mentioned as such, apart from when the method of use of the performance dictates that such a mention is omitted, and to oppose any distortion, destruction or other modification of his performances, that may be prejudicial to his reputation. The provisions of the second paragraph of Article 25 and the second paragraph of Article 39 of this Law shall apply to the moral rights of performers.

Rights of Authorization of Phonogram Producers

51. Subject to the provisions of Articles 54 to 56, the phonogram producer shall have the exclusive right to carry out or authorize the following acts:

- (a) the direct or indirect reproduction of his phonogram;
- (b) the import of copies of his phonogram with a view to their distribution to the public;
- (c) the public provision, through sale or by any other means of ownership transfer, of copies of his phonogram not subject to distribution authorized by the producer;
- (d) the public hiring or loan of copies of his phonogram;
- (e) the public provision, by wire(less) means, of his phonogram so that access is provided for all persons from the place and at the time of their individual choosing.

Rights of Authorization of Broadcasting Organizations

52. Subject to the provisions of Articles 54 to 56, the broadcasting organization shall have the exclusive right to carry out or authorize the following acts:

- (a) the rebroadcasting of his broadcasts;
- (b) the fixation of his broadcasts;

(c) the reproduction of a fixation of his broadcasts;

(d) the communication to the public of his television broadcasts.

Chapter II

Equitable Remuneration for the Use of Phonograms

Equitable Remuneration for Broadcasting or Public Communication

53. When a phonogram published for commercial purposes, or a reproduction of this phonogram, is used directly for public broadcasting or communication, equitable and single remuneration, intended both for the performers or the producers of the phonograms, shall be paid by the user.

The sum received for the use of a phonogram shall be shared at a rate of 50% for the producer and 50% for the performers. The performers shall share the sum received from the producer or use it in accordance with the agreements existing between them.

Chapter III

Free Uses

General Provisions

54. Notwithstanding the provisions of Articles 50 to 53, the following acts shall be permitted without the authorization of the beneficiaries mentioned in these articles and without the payment of a fee:

(a) reporting of current events, provided that use is made only of short fragments of a performance, phonogram or broadcast;

(b) reproduction solely for scientific research purposes;

(c) reproduction as part of teaching activities, apart from when the performances or phonograms have been published as material intended for educational purposes;

(d) citation, as short fragments, of a performance, phonogram or broadcast, provided that such citations are properly used and are justified by their information aim;

(e) all other uses representing exceptions in relation to protected works

pursuant to the provisions of this Law.

Free Use of Performances

55. As soon as the performers have authorized the incorporation of their performance in a fixation of images, or of images and sounds, the provisions of Article 50 shall cease to be applicable.

Free Use by Broadcasting Organizations

56. The authorizations required under Articles 50 to 52 to make fixations of performances and broadcasts, reproduce such fixations and phonograms published for commercial purposes shall not be required when the fixation or reproduction is made by a broadcasting organization using its own means and for its own broadcasts, provided that:

(a) for each of the broadcasts of a performance fixation or its reproductions, made subject to this paragraph, the broadcasting organization is entitled to broadcast the performance in question;

(b) for each of the broadcasts of a broadcast fixation, or a reproduction of such a fixation, made subject to this paragraph, the broadcasting organization is entitled to make the broadcast;

(c) for any fixation made subject to this paragraph or its reproductions, the fixation and its reproductions are destroyed within a period of the same duration as that applied to the fixations and reproductions of works protected by copyright under Article 22 of this Law, apart from a single copy which may be retained solely for archive storage purposes.

Chapter IV

Duration of Protection

Duration of Protection for Performances

57. The duration of protection to be granted to performances under this Law shall be a period of 50 years starting from:

(a) the end of the year of the fixation for performances fixed on phonograms;

(b) the end of the year when the performance has taken place, for performances which are not fixed on phonograms.

Duration of Protection for Phonograms

58. The duration of protection to be granted to phonograms under this Law shall be a period of 50 years starting from the end of the year when the phonogram was published or, failing such publication within a period of 50 years from the fixation of the phonogram, 50 years starting from the end of the year of the fixation.

Duration of Protection for Broadcasts

59. The duration of protection to be granted to broadcasts under this Law shall be 25 years starting from the end of the year when the broadcast took place.

PART III

COLLECTIVE MANAGEMENT

60. The protection and use of copyrights and related rights, as defined by this Law, shall be entrusted to the authors' organization.

PART IV

MEASURES, APPEALS AND PENALTIES AGAINST PIRACY AND OTHER OFFENCES

Protective Measures

61. The court with competence to hear civil cases instituted under this Law shall have the authority, subject to the provisions of the Codes of Criminal and Civil Procedure, and to the conditions it considers reasonable, to:

(a) make a judgement prohibiting the commission or ordering the cessation of the violation of any right protected under this Law;

(b) order the seizure of the copies of works or of the sound recordings suspected of having been made or imported without the authorization of the owner of the right protected under this Law, whereas the production or import of the copies shall be subject to authorization, as well as of the packaging of these copies, the instruments that may have been used to produce them, and the documents, accounts or business papers relating to these copies.

The provisions of the Codes of Criminal and Civil Procedure relating to search and seizure shall apply to violations of the rights protected under this Law.

The copyright and works not published prior to the author's death may not be

seized. Only copies of the work already published may be seized.

The provisions of the Customs Code dealing with the suspension of the free movement of merchandise suspected of being unlawful shall apply to the items or equipment protected under this Law.

Civil Penalties

62. The owner of rights protected under this Law, and whose recognized right has been violated, shall be entitled to obtain payment, from the person responsible for the violation, of damages as compensation for the harm suffered by him as a result of the act of violation.

The amount of the damages shall be fixed in accordance with the provisions of the Civil Code, given the importance of the material and moral damage suffered by the right owner and the scale of the benefits which the person responsible for the violation has gained therefrom.

When the person responsible for the violation did not know or had no valid reason to know that he was engaging in an activity infringing a right protected under this Law, the judicial authorities may limit the damages to the benefits which the person responsible for the violation has gained therefrom or to the payment of pre-established damages.

When the copies produced in violation of the rights exist, the judicial authorities shall have the authority to order that these copies and their packaging should be destroyed and that alternative reasonable arrangements are made, outside commercial spheres so as to avoid causing damage to the right owner, apart from where the owner asks for alternative arrangements to be made. This provision shall not apply to copies of which a third party has acquired ownership in good faith, nor to their packaging.

When the danger exists that material might be used to commit, or to continue to commit, acts constituting a violation, the judicial authorities shall, insofar as is reasonable, order that the material should be destroyed, that alternative arrangements are made outside the commercial spheres so as to reduce to a minimum the risks of further violations, or that the material is returned to the right owner.

When the danger exists that acts constituting a violation will continue, the judicial authorities shall expressly order the cessation of these acts. They shall also fix an amount equivalent to at least 50% of the value of the operation.

Violations Committed Against Expressions of Folklore

63. Any person who uses, without the authorization of the competent organization, an expression of folklore in a manner not permitted under paragraph (1), shall commit an offence and be liable for damages, injunctions or any other form of reparation that the court may consider appropriate in the case in question.

Criminal Sanctions

64. Any violation of a right protected under this Law, if committed intentionally or through negligence and for profit-making purposes, shall render the person responsible liable to the penalties provided for in the Criminal Code. The amount of the fine shall be fixed by the court, taking into account the benefits which the defendant has gained from the violation.

The judicial authorities shall have authority to triple the upper limit of the penalties when the party in contravention is convicted of a further act constituting a violation of the rights, less than five years after having been convicted of a previous offence.

The judicial authorities shall also apply the measures and penalties envisaged in Articles 59 and 60 of the Code of Criminal Procedure, provided that a decision has not yet been taken in a civil trial concerning these penalties.

Measures, Reparations and Penalties in Cases of Violation of Technical Means and Distortion of Information on the Rights Regime

65. The following acts shall be considered unlawful and, for the purposes of Articles 61 to 63, shall be assimilated to a violation of the rights of authors and other copyright owners:

(a) the manufacture or import, for sale or hiring, of a device or means specially designed or adapted to render inoperable any device or means used to prevent or restrict the reproduction of a work, or in order to diminish the quality of the copies produced;

(b) the manufacture or import, for sale or hiring, of a device or means designed to allow or facilitate the receipt of a coded broadcast or other public communication, by persons not entitled to receive it;

(c) the deletion or modification, without due entitlement, of any information relating to the rights regime and in electronic form;

(d) the distribution or import for the purposes of distribution, broadcast or public communication, without due entitlement, of works, of performances, phonograms or broadcasts, in the knowledge that information relating to the rights regime and in electronic form has been deleted or modified without authorization.

(e) For the purposes of this Article, the expression "information on the rights regime" is to be understood as information allowing the author, work, performer, performance, producer of phonograms, phonogram, broadcasting organization, broadcast, and any right owner under this Law to be identified, or any information relating to the conditions and procedures for use of the work and other productions covered by this Law, as well as any number or code representing this information, when any of the information elements is attached to the copy of a work or fixed performance, to the copy of a phonogram, or to a fixed broadcast, or appears in relation to the broadcast, public communication or provision of a work, fixed performance, phonogram or broadcast.

For the purposes of applying Articles 61 to 63, any device or means mentioned in the first paragraph and any copy from which information on the rights regime has been deleted or modified, shall be assimilated to the counterfeit copies of works.

PART V

SCOPE OF APPLICATION OF THE LAW

Application to Literary and Artistic Works

66. The provisions of this Law relating to the protection of literary and artistic works shall apply to:

(a) works whose author or any other original copyright owner is a national of the Kingdom of Morocco or has his habitual residence or headquarters in the Kingdom of Morocco;

(b) audiovisual works whose producer is a national of the Kingdom of Morocco or has his habitual residence or headquarters in the Kingdom of Morocco;

(c) works published for the first time in the Kingdom of Morocco, or published for the first time in another country and also published in the Kingdom of Morocco within a period of 30 days;

(d) works of architecture erected in the Kingdom of Morocco or works of fine

art forming part of a building located in the Kingdom of Morocco.

The provisions of this Law relating to the protection of literary and artistic works shall apply to works which are entitled to protection under an international treaty to which the Kingdom of Morocco is party.

Application to the Rights of Performers, Producers of Phonograms and Broadcasting Organizations

67. The provisions of this Law relating to the protection of performers shall apply to performances when:

- the performer is a national of the Kingdom of Morocco;
- the performance takes place on the territory of the Kingdom of Morocco;
- the performance is fixed in a phonogram protected under this Law; or
- the performance which has not been fixed in a phonogram is incorporated in a broadcast protected under this Law.

The provisions of this Law relating to the protection of phonogram producers shall apply to phonograms when:

- the producer is a national of the Kingdom of Morocco; or
- the first fixation of the sounds has been made in the Kingdom of Morocco;
- the phonogram has been produced for the first time in the Kingdom of Morocco.

The provisions of this Law relating to the protection of broadcasting organizations shall apply to broadcasts when:

- the head office of the organization is located on the territory of the Kingdom of Morocco; or
- the broadcast has been transmitted from a station located on the territory of the Kingdom of Morocco.

The provisions of this Law shall also apply to the performances, phonograms and broadcasts protected under the international conventions to which the Kingdom of Morocco is a party.

Applicability of International Conventions

68. The provisions of an international treaty concerning copyright and related rights, to which the Kingdom of Morocco is a party, shall apply in the cases provided for in this Law.

In the case of a discrepancy between the provisions of this Law and those of an international treaty to which the Kingdom of Morocco is a party, the provisions of the international treaty shall apply.

PART VI

MISCELLANEOUS AND FINAL PROVISIONS

Transitional Provisions

69. The provisions of this Law shall also apply to the works which have been created, performances which have taken place or have been fixed, the phonograms which have been fixed and the broadcasts that have been made prior to the entry into force of this Law, provided that these works, performances, phonograms and broadcasts have not yet entered the public domain, owing to the fact that the period of protection, to which they were subject in the previous legislation or in the legislation of their country of origin, has expired.

The legal effects of the acts and contracts concluded or stipulated prior to the entry into force of this Law shall remain intact and unaffected.

Entry into Force

70. The provisions of this Law shall enter into force six months after its publication in the Official Gazette [*Bulletin officiel*].

Repeal

71. Dahir No. 1-69-135 of July 29, 1970, relating to the protection of literary and artistic works, is hereby repealed.

* *Official French title:* Loi n^o 2-00 relative aux droits d'auteur et droits voisins.

Entry into force: November 18, 2000.

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Note: Translation by the International Bureau of WIPO.

** Added by the International Bureau of WIPO.