

## Law of March 29, 1972, on Copyright\*

(as last amended by the Law of April 24, 1995, Concerning  
the Legal Protection of Computer Programs)

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## Section I Copyright in General

*Art. 1.* The author of a literary or artistic work shall enjoy therein an exclusive incorporeal property right which shall be exclusive and enforceable against all persons.

This right shall include intellectual and moral attributes and likewise economic attributes as determined by this Law.

The expression “literary and artistic works” shall include all productions in the literary, scientific and artistic domain, regardless of the mode or form of expression thereof, such as books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramatico-musical works; choreographic and mimed works the acting form of which is set down in writing or otherwise; musical compositions with or without words; cinematographic works to which are assimilated works expressed by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works to which are assimilated works expressed by a process analogous to photography; works of applied art, illustrations, maps, plans, sketches and three-dimensional works relative to geography, architecture or science; *computer programs*. (*Law of April 24, 1995*)

Translations, adaptations, arrangements of music and other transformations of a literary or artistic work shall be protected as original works without prejudice to the rights of the author of the original work.

Collections of literary or artistic works which, by reason of the selection and arrangement of their contents, constitute intellectual creations shall be protected as such, without prejudice to the copyright in each of the works forming part of such collections.

*Art. 2.* Except as otherwise provided in this Law, copyright shall subsist for 50 years after the death of the author in favor of his heirs or successors in title.

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\* *Official French title:* Loi du 29 mars 1972 sur le droit d’auteur.

*Entry into force* (of the latest amending law): March 3, 1995.

*Source:* Communication from the Luxembourg authorities.

*Note:* Translation by the International Bureau of WIPO.

The term provided for in the preceding paragraph may, however, be extended by administrative regulation.

*Art. 3.* The right to reproduce the work or to disclose it in any other way to the public, and to authorize the reproduction or disclosure thereof, shall constitute the author's exclusive right of exploitation.

The right of exploitation may be assigned or transferred, wholly or in part, in accordance with the rules of the Civil Code.

*Art. 4.* The copyright in photographic works and works of applied art shall subsist for 50 years from the date on which such works were made.

*Art. 5.* In the absence of proof to the contrary, the person whose name is mentioned on the work in the usual manner as being the author shall be presumed to be the author of the work.

*Art. 6.* Subject to the provisions of Section VI, where the work is the product of joint authorship in which the individual contributions of the authors are indivisible, copyright shall inure to the benefit of all entitled persons for a period of 50 years after the death of the last surviving coauthor.

*Art. 7.* Where copyright is undivided, its exercise shall be regulated by agreement. In the absence of agreement, none of the coauthors may exercise the copyright individually; in case of disagreement, however, the courts may decide.

Nevertheless, each of the coauthors shall remain free to institute proceedings in his own name and without the intervention of the others in the event of infringement of copyright, and to claim damages for his part.

*Art. 8.* The publisher of an anonymous or pseudonymous work shall be deemed to represent the author in relation to third parties. The term of protection shall expire 50 years after the work has been lawfully made available to the public.

Nevertheless, if the identity of the author is established, he, or his successors in title, shall recover their respective rights.

*Art. 9.* Independently of the author's economic rights and even after the transfer thereof, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work that would be prejudicial to his honor or reputation.

The right referred to in the preceding paragraph shall vest in the author personally. After his death, it shall be maintained until the lapse of the economic rights, and throughout the term of protection it may be exercised by the author's heirs or by any third party to whom the author may have entrusted such exercise by testamentary provision.

*Art. 10.* For the calculation of the term of protection provided for in this Law, the first of January of the year following the event concerned shall be taken as the starting date.

## **Section II**

### **Exceptions to Copyright**

*Art. 11.* Speeches made in deliberative assemblies, at public hearings of the courts or at political meetings may be freely published and broadcast. Lectures, addresses and other works of the same nature that are delivered in public may be reproduced by the press and broadcast in their original form or in translation when such use is justified by the inforamatory purpose.

Nevertheless, the author alone shall have the right to make reprints or a collection of the works mentioned in the preceding paragraph.

*Art. 12.* Official texts of the authorities and official translations thereof shall not give rise to copyright.

All other writings produced by the State, municipalities or public establishments shall give rise to copyright, either in favor of such administrations for a term of 50 years following publication or in favor of the author if he has not transferred it to such administrations.

*Art. 13.* The author's right in a literary or artistic work that has already been lawfully made available to the public shall not preclude the right to make quotations, in the original or in translation, to the extent justified provided that the quotations are compatible with fair practice, by the purpose, including quotations from newspaper articles and periodicals in the form of press reviews.

The same shall apply to the use of literary or artistic works, to the extent justified by the purpose, by way of illustration in publications, broadcasts or sound or visual recordings for teaching, provided that such use is compatible with fair practice.

Any such quotation or use shall be accompanied by a mention of the source and of the name of the author if it appears thereon.

*Art. 14.* Literary or artistic works seen or heard in the course of a current event may, to the extent justified by the informatory purpose, be reproduced and made available to the public on the occasion of a report on the event by means of photography, cinematography or broadcasting.

Articles published in newspapers or periodicals on current economic, political or religious topics, and broadcast works of the same character, may be reproduced by the press or broadcast, in the original or in translation, where the authors or publishers have not expressly stated, in the newspaper or periodical in which such works appeared, that they prohibit the reproduction or broadcasting thereof; nevertheless, the source must always be clearly specified. In the case of collections, it is sufficient for the prohibition to be made in general terms on the heading of each issue. News of the day and miscellaneous news items having merely incidental character may be freely used.

### **Section III**

## **Copyright in Literary, Dramatic, Dramatico-Musical and Musical Works**

*Art. 15.* Authors of dramatic, dramatico-musical and musical works shall enjoy the exclusive right to authorize: (1) the public performance of their works, including public performance by any means or process; (2) any communication to the public of the performance of their works.

The rights referred to in the first paragraph shall accrue to the authors of dramatic or dramatico-musical works throughout the duration of their rights in the original works with respect to translations thereof.

Authors of literary works shall enjoy the exclusive right to authorize: (1) the public recitation of their works, including public recitation by any means or process; (2) any communication to the public of the recitation of their works.

The rights referred to in the third paragraph shall accrue to the authors of literary works throughout the duration of their rights in the original works with respect to translations thereof.

*Art. 16.* The copyright in the works referred to in Article 15 shall include the exclusive right to make translations, arrangements, adaptations or other alterations of such works.

*Art. 17.* In the case of works comprising words or texts and music, the composer and the author may not make arrangements for their work with a new coauthor. Nevertheless, they shall have the right to exploit it separately, provided that this is not prejudicial to the exploitation of the joint work.

## Section IV Copyright in Works of the Figurative Arts

*Art. 18.* The transfer of a work of art shall not imply an assignment of the copyright to the acquirer.

*Art. 19.* Neither the author nor the owner of a portrait shall have the right to reproduce or exhibit it in public without the consent of the person portrayed or of his successors in title, for a period of 20 years after his death.

*Art. 20.* A work of art reproduced by industrial processes or applied to industry shall remain subject to the provisions of this Law.

*Art. 21.* A work of art, including a work of architecture, that is permanently located in a public place may be reproduced and made available to the public by means of cinematography or broadcasting. This shall likewise apply where the inclusion of such a work in the film or broadcast is only of accessory or incidental character in relation to the principal subject.

*Art. 22.* Notwithstanding any transfer of the original work, the authors of works of the graphic and three-dimensional arts shall have an inalienable right to share in the proceeds of any sale of such work by public auction or through a dealer.

After the author's death, this resale royalty right shall belong to his heirs, excluding all legatees and assignees, for the current calendar year and 50 years thereafter.

The royalty rate, which may not exceed 3%, shall be applicable only as from a minimum selling price. It shall be charged on the selling price of each work and on the total amount of that price without any deduction at source.

An administrative regulation shall set the royalty rate and the minimum selling price referred to in the preceding paragraph. It shall also determine the conditions under which authors are to claim the rights conferred on them by the provisions of this Article.

## Section V Broadcasting of Literary and Artistic Works

*Art. 23.–*

I. Authors of literary and artistic works shall enjoy the exclusive right to authorize:

1. the broadcasting of their works or the communication thereof to the public by any other means of wireless diffusion of signs, sounds or images;
2. any communication to the public of the broadcast of the work by wire or wireless means, when the communication is made by an organization other than the original one;
3. communication of the broadcast work to the public by loudspeaker or by any other analogous instrument serving to transmit signs, sounds or images.

II. Unless otherwise stipulated by contract, the authorization provided for in the preceding paragraph shall imply, for the broadcasting organization to which it has been granted, permission to use, for the purpose of broadcasting, lawfully made instruments for the recording of sounds or images.

*Art. 24.* In the case of a work that has already been lawfully made available to the public and the entire or partial exploitation of which has been entrusted on whatever basis to any organization referred to in Article 48, the broadcasting or communication to the public of the work shall be lawful in the absence of an amicable arrangement between the parties concerned subject to payment of equitable remuneration. In the absence of agreement or arbitration between the parties concerned, the ordinary courts, acting as in the case of a summary and urgent matter, shall set the amount of the equitable remuneration lawfully payable.

In no event may the broadcast or communication to the public made as provided in the preceding paragraph be prejudicial to the right provided for in Article 9.

*Art. 25.* Unless otherwise provided, authorization granted pursuant to Article 23 shall not imply authorization to record the broadcast work by means of instruments for the recording of sounds or images.

However, ephemeral recordings made by a broadcasting organization by means of its own facilities and for its own broadcasts shall be lawful, provided that they are used for broadcasting purposes only during the three months following the performance or recitation recorded and are thereafter destroyed or rendered unusable.

The recordings referred to in the preceding paragraph may nevertheless be preserved in official archives where they are of exceptional documentary character. The procedure for such preservation shall be fixed by administrative regulation.

## **Section VI**

### **Cinematographic Works**

*Art. 26.* Authors of literary or artistic works shall have the exclusive right to authorize:

1. the cinematographic adaptation and reproduction of these works and the distribution of the works thus adapted or reproduced;

2. the public performance, by any means or process, of the works thus adapted or reproduced.

The adaptation to any other artistic form of cinematographic productions drawn from literary or artistic works shall, without prejudice to the authorization of the authors thereof, remain subject to authorization by the authors of the original works.

The application of the provisions of Section V shall remain reserved.

*Art. 27.* The copyright in a cinematographic work shall originate with the maker thereof. The natural person or legal entity whose name appears in the usual manner on a cinematographic work shall, in the absence of proof to the contrary, be presumed to be the maker of the said work.

The copyright in a cinematographic work shall expire 50 years after the work has been lawfully made available to the public.

*Art. 28.* In the absence of any contrary or special provision, the contract concluded by the maker of a cinematographic work with the authors of the works used in the making thereof, with the exception of musical works with or without words, shall imply a transfer to the maker of the right to exploit the cinematographic work by all means and processes, including the subtitling or dubbing of the text, and to make whatever alterations may be essential to such exploitation, provided that the alterations are not prejudicial to the right provided for in Article 9.

## **Section VIbis**

### **Copyright in Computer Programs**

*(Introduced by the Law of April 24, 1995,  
Completing the Copyright Law of March 29, 1972,  
Concerning the Legal Protection of Computer Programs)*

(Subject Matter of Protection)

*Art. 28.-1.* Computer programs shall be protected by this Law as literary works within the meaning of the Berne Convention for the Protection of Literary and Artistic Works. The protection of a computer program shall include the preparatory design material relating to the program.

(Persons Eligible for Protection)

*Art. 28.-2.-*

1. Protection shall be granted to any person entitled to benefit from the provisions of this Law that apply to literary works.

2. Where a computer program is created by an employee in the course of his work or on instructions from his employer, the employer alone shall be entitled to exercise all the economic rights arising in connection with the computer program thus created, unless otherwise provided by contract.

(Acts Subject to Restriction)

*Art. 28.-3.* Subject to Articles 28-4, 28-5 and 28-6, the exclusive rights of the author of a computer program shall include the right to carry out and authorize the following:

(a) the permanent or temporary reproduction of all or part of a computer program by any means and in any form, including the loading, display, running, transmission or storage of the computer program where such acts necessitate such reproduction;

(b) the translation, adaptation, arrangement and any other alteration of a computer program, and the reproduction of program resulting therefrom, without prejudice to the rights of the person who has altered the computer program;

(c) any form of distribution to the public, including sale, leasing, licensing and rental, of the original or copies of the computer program. Nevertheless, the first transaction of this type conducted within the European Economic Community by the holder of the exclusive rights or with his consent shall exhaust the right of distribution within the Community of copies of the computer program that is the subject of the transaction, with the exception of the right to control subsequent rentals of these copies.

(Exceptions to Acts Subject to Restriction)

*Art. 28.-4.* In the absence of specific contractual provisions, the authorization of the holder of rights shall not be required for the acts specified in Article 28-3, subparagraphs (a) and (b), where those acts are necessary for the use of the computer program by the lawful acquirer in accordance with its intended purpose, including for error correction.

(Other Exceptions)

*Art. 28.-5.* A person having the right to use the computer program may not be prevented by contract from:

(a) making a backup copy insofar as such a copy is necessary for the use of the program;

(b) observing, studying or testing the operation of the program in order to determine the ideas and principles underlying any element thereof while performing any of the acts of loading, display, running, transmission or storage of the program that he is entitled to perform.

(Decompilation)

*Art. 28.-6.-*

1. The authorization of the holder of the exclusive rights shall not be required where reproduction of the code or translation of its form within the meaning of Article 28-3, subparagraphs (a) and (b), is indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, provided that the following conditions are met:

(a) the acts are performed by a person having a right to use a copy of a program or on his own behalf by a person authorized to do so;

(b) the information necessary to achieve interoperability is not already readily and rapidly available to the persons referred to in subparagraph (a); and

(c) the acts are confined to the parts of the original program that are necessary to achieve interoperability.

2. The provisions of paragraph 1 shall not permit the information obtained by applying it:

(a) to be used for purposes other than the achievement of the interoperability of the independently created computer program;

(b) to be communicated to others, except where such communication proves necessary for the interoperability of the independently created computer program; or

(c) to be used for the development, production or marketing of a computer program that is substantially similar in its expression, or for any other act that infringes copyright.

3. Pursuant to Article 9(2) of the Berne Convention for the Protection of Literary and Artistic Works, this Article may not be applied in a manner that unreasonably prejudices the legitimate interests of the holder of rights or conflicts with a normal exploitation of the computer program.

(Special Protection Measures)

*Art. 28.-7.-*

1. The following acts shall constitute an act of infringement involving the civil or criminal liability of the perpetrators:

(a) the circulation of a copy of a computer program in the knowledge, or with reason to believe, that it is unlawful;

(b) the possession of a copy of a computer program for commercial purposes in the knowledge, or with reason to believe, that it is unlawful;

(c) the circulation or possession for commercial purposes of any means the sole intended purpose of which is to facilitate the unauthorized elimination or disablement of built-in technical devices for the protection of the computer program.

2. Any unlawful copy of a computer program shall be susceptible of seizure.

(Term of Protection)

*Art. 28.-8.* The term of the protection afforded to a computer program under this Law shall be the same as that applicable to a literary work in the same circumstances.

(Effects of Certain Provisions or Clauses)

*Art. 28.-9.-*

1. The provisions of this Law shall apply to computer programs created prior to the entry into force of this Section *Vibis*, without prejudice to acts completed and rights acquired before that date.

2. Any contractual provision contrary to Article 28-6 or to the exceptions provided for in Article 28-5 shall be null and void.

## Section VII Infringement and the Repression Thereof

*Art. 29.* Any willful or fraudulent violation of copyright shall constitute the offense of infringement.

Those who knowingly sell infringing articles or display them for sale, stock them for the purpose of sale, import them or circulate them on the territory of Luxembourg for commercial purposes, shall be guilty of the same offense.

*Art. 30.* The offenses referred to in the preceding Article shall be punished with a fine of 501 francs to 20,000 francs.

The guilty party shall be sentenced to confiscation of infringing works or objects and of plates, molds or matrices and other implements that have directly served to commit such offenses.

*Art. 31.* In the case of a performance or recitation given in breach of copyright, the proceeds may be seized by the judicial police as being objects derived from the offense and shall be awarded to the plaintiff as constituting part of the damages due to him, but solely in proportion to the share that his work represented in the said performance or recitation.

*Art. 32.* Any willful or fraudulent affixation on a literary or artistic work of the name of the author, or of any distinctive sign adopted by him to identify his work, shall be punished with imprisonment for a term of three months to two years and a fine of 1,000 francs to 20,000 francs, or with one of those penalties only.

Confiscation of the infringing objects shall be ordered in all cases.

Those who knowingly sell the objects designated in the first paragraph or display them for sale, stock them for the purpose of sale, import them or circulate them on the territory of Luxembourg for commercial purposes shall be liable to the same penalties.

*Art. 33.* Article 191 of the Criminal Code is replaced by the following provisions:

“Any person who either affixes or causes to be affixed, by addition, excision or any alteration whatsoever, on manufactured articles the name of a manufacturer other than the one who is the author thereof, or the business style of a factory other than that of the manufacturer, shall be punished with imprisonment for a term of one month to six months and a fine of 501 francs to 10,000 francs, or with one of those penalties only.

The same penalty shall be imposed on any merchant, factor or retailer who has knowingly displayed objects marked with fictitious or altered names for sale or imported or circulated such objects.”

*Art. 34.* Violations of this Law other than those referred to in Article 32, may only be proceeded against on a complaint by the person alleging injury.

*Art. 35.* The provisions of Title I of the Criminal Code and the Law of June 18, 1879, as amended by the Law of May 16, 1904, entrusting the courts and tribunals with the evaluation of extenuating circumstances shall apply to the offenses provided for in this Law.

*Art. 36.* The following provision is added to No. 23 of Article 1 of the Law of March 13, 1970, on Extradition; “... as well as for the offense specified in Article 32 of the Copyright Law.”

## **Section VIII**

### **Civil Proceedings Arising from Copyright**

*Art. 37.* Copyright owners may, with the authorization of the President of the Court of First Instance of the place in which the infringement was committed, obtained on request, have a description drawn up by one or more experts, designated by the magistrate, of the allegedly infringing objects, or of the acts of infringement and the implements that served directly for the performance of those acts.

The President may, by the same order, forbid the holders of the infringing objects to part with them, allow the appointment of a custodian or even place the objects under seal. This order shall be served by a bailiff appointed for the purpose.

In the case of acts that give rise to monetary receipts, the President may order the sequestration of the monies by a bailiff appointed by him.

*Art. 38.* The request shall include election of domicile in the district in which the description is to be drawn up.

The experts shall take oath before the President before commencing their activities.



*Art. 39.* The President may require the plaintiff to deposit a surety, in which case the order shall be issued only after proof is given that the surety has been deposited.

*Art. 40.* The parties may be present at the drawing up of the description if specially authorized by the President.

*Art. 41.* If the doors are closed or if the opening thereof is refused, proceedings shall be taken in accordance with Article 587 of the Code of Civil Procedure.

*Art. 42.* A copy of the record of the description shall be sent by the experts by registered mail and with the least possible delay to the person on whom, and the person on whose behalf, the order was served.

*Art. 43.* If, within eight days following the date of the aforementioned mailing as evidenced by the postmark, or following the date of the sequestration of receipts, there has been no summons before the court within the jurisdiction of which the description was drawn up, the order shall lapse as of right and the holder of the objects described or of the monies sequestered may apply for the delivery to him of the original description record together with an injunction prohibiting the plaintiff from using or publishing the description, without prejudice to any claims for damages.

*Art. 44.* Without prejudice to the injured party's right to enter a criminal action under the provisions of general legislation, actions arising from this Law shall be within the exclusive competence of the civil courts.

The case shall be heard as a matter of urgency.

*Art. 45.* Sequestered receipts and objects may be allotted to the injured person on account or up to the amount of the damages incurred.

*Art. 46.* In the case of any violation of the provisions of Article 22, the acquirer and the law officials may be held jointly liable for damages which shall inure to the benefit of the persons entitled to the resale royalties.

## **Section IX Rights of Foreigners**

*Art. 47.* Foreigners shall enjoy within the Grand Duchy the rights guaranteed by this Law provided that the term of those rights may not, as far as they are concerned, exceed the term laid down by the legislation of Luxembourg.

The effects of international conventions are reserved.

## **Section X Organizations Exercising Copyright**

*Art. 48.–*

I. Any organization exercising, in whatever capacity, copyright in the territory of Luxembourg on behalf of more than one author or entitled person must obtain authorization to do so. If the organization is established abroad, it must in addition have a general agent domiciled in the Grand Duchy who shall represent it in the country in both judicial and non-judicial matters. The general agent must be officially approved.

The authorization and the approval, which are prescribed on pain of preclusion of any action, shall be granted by the member of the Government in charge of copyright.

II. The organization established abroad must produce a copy of the power of attorney given to its general agent. The power of attorney must unequivocally specify the powers delegated, which must include the power to represent the organization before the law.

Any summons or notification to be served on an organization established abroad may be served at the domicile of the general agent, who shall be competent to entertain any action under this Law and more particularly those arising from copyright contracts concluded in the Grand Duchy with natural persons or legal entities established there and concerning either residents of the Grand Duchy or undertakings located therein.

The domicile of the general agent shall also serve to determine the time limits to be observed in relation to any summons or notification.

III. For the purposes of this Law, any copyright contract concluded with a user resident or established in the Grand Duchy shall be deemed to have been concluded in the Grand Duchy.

IV. Any clauses in copyright contracts that depart from the foregoing provisions shall be null and void.

V. The organizations referred to in I, above, shall draw up a list of the authors of works represented by them and shall keep it up-to-date.

The said list may be consulted by impresari and broadcasting organizations and in general by all users and by all persons having an interest therein. In the case of organizations established abroad, the list shall remain on deposit with the general agent.

The member of the Government in charge of copyright may grant exemptions from the requirements set forth in the preceding two paragraphs insofar as lists deposited abroad may be consulted by users through the agency of Luxembourg organizations or of the general agents of organizations established abroad.

VI. An administrative regulation shall specify the conditions governing the authorization and the approval referred to in I, above, and the conditions in which the organizations referred to therein may carry on their activities. The said regulation shall be issued only after a mandatory finding issued by the Council of State, and it shall determine the date of entry into force of the provisions of this Article.

## **Section XI**

### **Transitional Provision**

*Art. 49.* Contracts on relevant matters lawfully concluded under the provisions of earlier laws shall remain unaffected by this Law. Authors or their successors in title whose exclusive rights under such laws had not expired on the entry into force of this Law shall hereafter be governed by this Law.

## **Section XII**

### **Repeal of Existing Legislation**

*Art. 50.* The Law of May 10, 1898, on Copyright and the Orders of May 10 and 13, 1898, concerning the implementation of that Law are hereby repealed.

## **Section XIII**

### **Entry into Force**

*Art. 51.* The provisions of this Law, with the exception of those of Article 48, shall enter into force three months after their publication in the *Mémorial*.