

Literary and artistic property Copyright

**within the framework of the publications of the
EU institutions and bodies, agencies and
other decentralised organisations**

Author Services Unit



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Definitions

‘Copyright’

Creators of literary or artistic works hold certain fundamental rights in their works (original works) :

Moral rights + Economic rights

Moral rights (inalienable / non-transferable rights)

- **the right of paternity** = to claim authorship of the work
(*attribution/acknowledgement of the author*)
- **the right of respect** = to object to any distortion, mutilation or alteration of the work that is prejudicial to the integrity thereof or to the reputation of the author



Economic rights = copyright (alienable / transferable rights)

The author's exclusive rights:

- to exploit and to disseminate the work, and to benefit financially
 - to prohibit the use of the work
 - to assign or license to others the right to use the work subject to the conditions he has set, and to payment
- **Reproduction**
 - **Translation**
 - **Adaptation**
 - **Public performance**
 - **Recording**
 - **Broadcasting**
 - **Communication to the public**



Legal basis

International law:

- Berne Convention 1886, revised in 1971
- Rome Convention, 1961 (related and neighbouring rights)
- World Trade Organization - WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), 1994
- World Intellectual Property Organization - WIPO Copyright Treaty (WCT), 1996
- World Intellectual Property Organization - WIPO Performances and Phonograms Treaty (WPPT), 1996

European Union law:

- Directive [2004/48/EC](#) on the enforcement of intellectual property rights
- Directive [2001/29/EC](#) on the harmonisation of certain aspects of copyright and related rights in the information society
- Directive [96/9/EC](#) on the legal protection of databases
- Council Directive [93/98/EEC](#) harmonising the term of protection of copyright and certain related rights

National laws :

- Luxembourg Legislation: Law of 18 April 2001 concerning intellectual property rights, related rights and databases, amended by Law of 18 April 2004



Limitations on rights

- The right of quotation
 - The right of communication to the public
(in the framework of topical reports, current affairs, news)
 - The right of reproduction for private use *(fair compensation)*
 - Legislative, administrative, or legal texts
(=> public domain)
 - ...
- ➔ Limitations may vary according to the national legislation of each country (cf. Directive 2001/29/EC)



Implications for EU publications

- Protection of the intellectual property rights of the EU institutions, agencies and other decentralised organisations
→ *in particular by the inclusion of an appropriate copyright notice*
- Definition of the extent of economic rights
→ *possibility to authorise or to prohibit reproduction, translation...*
- Respect for third-party rights when using third-party textual or artistic material

→ *to obtain the necessary permissions in writing, and to keep to the required conditions + to acknowledge the third party's copyright*



Copyright status in EU publications

- **EC statutory personnel:** Article 18, paragraph 1, of the staff regulations

'All rights in any writings or other work done by any official in the performance of his duties shall be the property of the Community to whose activities such writings or work relate. The Communities shall have the right to acquire compulsorily the copyright in such works.'

- **Experts or groups of experts outside the institutions:** a document stating the transfer of rights shall be signed.
- **Contractors:** the EC standard study/service contracts stipulate that copyright shall be owned exclusively by the European Communities, except where copyright or any other right of ownership already exists.



Copyright status in EU publications (continued)

- **Commission Decision of 7 April 2006 on the re-use of Commission information (2006/291/EC , Euratom)**

Exclusive rights: in principle '*No exclusive rights shall be granted.*'

(Article 10, paragraph 2)

Exception: an exclusive right may be granted '*for the provision of a service in the public interest*' (Article 10, paragraph 3)

However the following conditions must be observed:

- *the validity of the reason for granting such an exclusive right shall be reviewed after 3 years*
- *the exclusive arrangement shall be transparent and made public*
- *a rigorous follow-up of the file is required, and the exclusive right must be strictly respected*



Copyright notice

- **© + name of copyright holder + year(s)** of creation/first publication

The rights holder must necessarily have legal personality

either: a natural person

or: a legal entity

The European Communities have legal personality, as well as the agencies and other decentralised organisations.
(cf. statutes or founding acts/treaties)

+

- The extent of rights (degree of protection)

+

- Suitably prominent and appropriate acknowledgement when third-party copyright material is included



Copyright notice (continued)

- **Entirely protected publication:**

© European Communities, [year(s)]

© European Food Safety Authority, [year(s)]

All rights reserved



Copyright notice (continued)

Limited protection:

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Third-party copyright

Whenever using third-party textual (*articles/studies/reports...*) or artistic (*photos/drawings/cartoons/music...*) material in an EC publication (whether paper edition or electronic format) the author service undertakes to:

- obtain prior permission from the copyright holder(s)
- pay any fees required for such reproduction rights
- acknowledge the copyright holder(s) and/or the author(s)
- ensure that permission is granted to reproduce and disseminate the material **+ the right to itself further authorise reproduction thereof by third parties**



Notice for third-party copyright material

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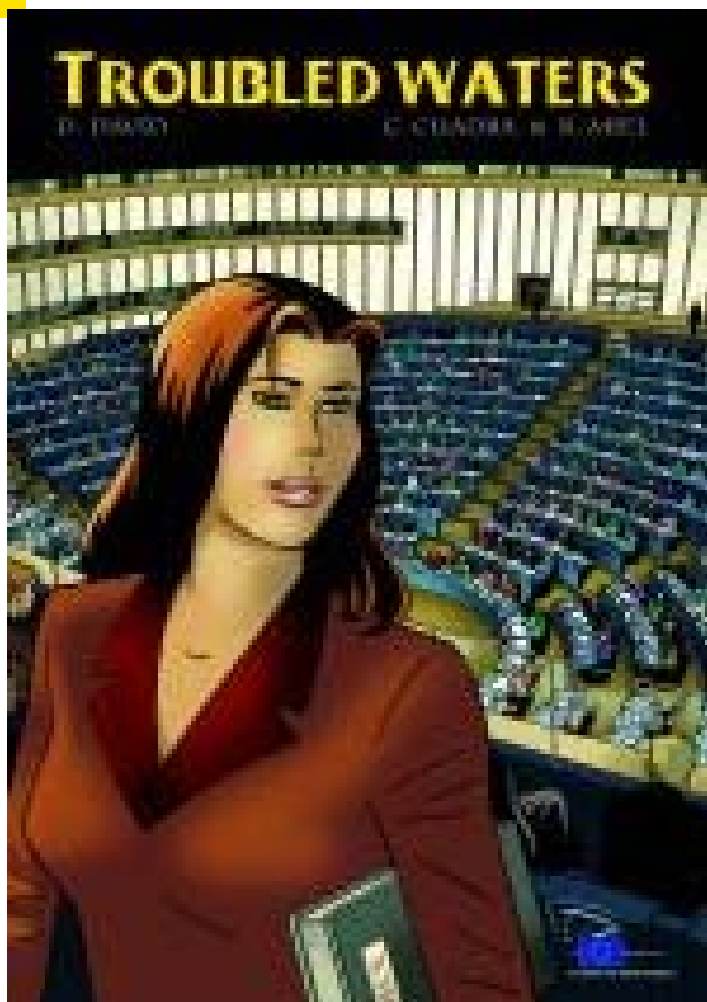
- © [name of copyright holder(s)], [year(s)]

followed by one of the following forms, or similar wording:

- (a) Reproduction of the [photos, illustrations, ...] is prohibited.
- (b) For any use or reproduction of the [photos, illustrations, ...]
permission must be sought directly from the copyright holder(s).
- (c) Courtesy acknowledgement (*'Reproduced with kind permission of ...'*)



Examples of erroneous copyright notices



Concept and production: Concerto, Brussels -

www.concerto.be

Writers: Cristina Cuadra, Rudi Miel

Illustration: Dominique David

Colours: Etienne Simon

Strasbourg Buildings: Architecture Studio

Thanks to Marta Kindelán Bustelo and Bibliothèque Solvay

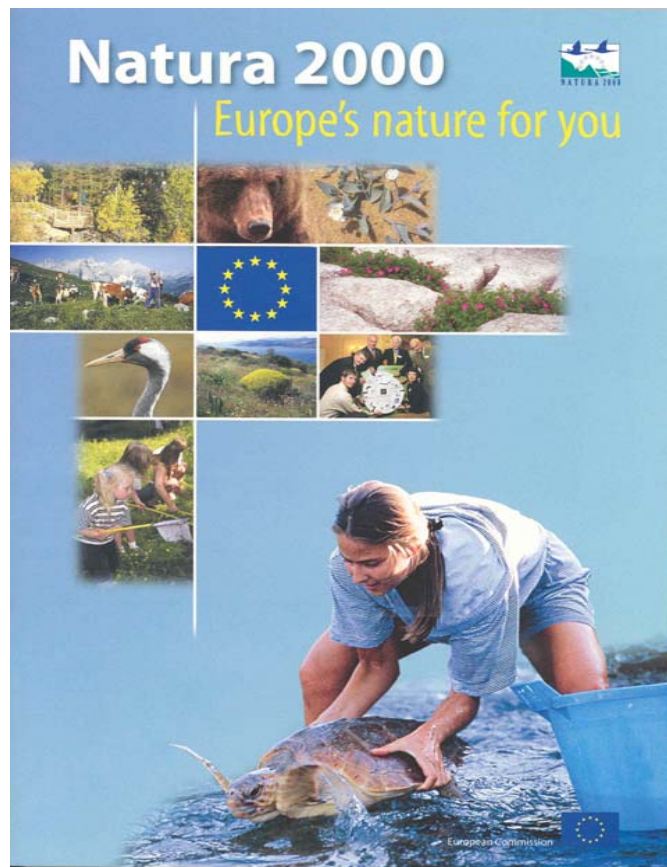
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Example of a more explicit copyright notice



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Cataloguing data can be found at the end of this publication.

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The French denomination 'libre de droits' (in English 'free of rights = royalty free') does not mean:

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Use of a software in multimedia publications

For example **'Adobe Reader'**:

<http://www.adobe.com/products/acrobat/distribute.html>

- Prior conclusion of the 'Adobe Reader Distribution Agreement'

or

- Inclusion on the website of a direct link to Adobe.com allowing the final user to download Adobe Reader



Databases

- **Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases**
 - ➔ Protection of databases (as a collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means)
 - ➔ The content of a database is subject to copyright protection (photos, documents, etc.)
 - ➔ Member States shall provide for a right for the maker of a database to prevent extraction and/or re-utilisation of the whole or of a substantial part of the content (extraction by any means or in any form)
- Sui generis right*** (condition: substantial investment)
→ (applied e.g. for TED <http://ted.europa.eu>)



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- http://ec.europa.eu/internal_market/copyright/index_en.htm (for the European Directives)
- <http://www.wipo.int/treaties/en/>
(Berne Convention, WIPO Copyright Treaty - WCT, WIPO Performances and Phonograms Treaty - WPPT, etc.)



Your questions are welcome



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