

UNESCO
WORLD ANTI PIRACY OBSERVATORY

MOROCCO

I. LEGISLATION.....	3
1. Copyright laws.....	3
2. Other laws	3
3. Latest developments and perspectives	3
4. Summary of legislation	3
5. International treaties	9
II. MEASURES AND REMEDIES	10
1. Copyright infringement.....	10
2. Remedies to protect copyright holders	11
3. Provisional measures	12
4. Penalties for copyright infringement.....	12
5. Requirements for foreign persons.....	13
III. ENFORCEMENT	14
1. Enforcement authorities	14
2. Enforcement at the border.....	15
IV. PUBLIC AWARENESS.....	17
1. Awareness campaigns and actions.....	17
2. Promotion of legal exploitation.....	17
3. Associations and organizations with awareness-raising purpose	17
4. Best practices	18
V. CAPACITY-BUILDING	18
1. Training.....	18
2. Establishment of specialized units and intersectoral groups	18
3. Best practices	18

VI. OTHER.....	18
1. TPM/DRM.....	18
2. Licensing Schemes	19
3. Optical Discs.....	19
4. Hotlines.....	19
5. Relevant contacts and links	19

I. Legislation

1. Copyright laws

Copyright is protected in Morocco through international agreements, [Law No. 2-00 on Copyright and Related Rights as amended in 2006 \(French and Arabic\)](#) and other legislation related to enforcement of copyright or affecting copyright protection.

The copyright law was enacted on February 15, 2000 ([Dahir No. 1-00-20 of 9 Kaada 1420 – February 15, 2000](#)) (In French) and published in the official gazette No. 4810 on July 6, 2000. It entered into force on November 18, 2000.

The Law was amended in 2006 by Law No. 34-05 of February 14, 2006 (Dahir No. 1-05-192 of 15 Moharrem 1427 - February 14, 2006), which was published in the official gazette No. 5400 on March 3, 2006 and in force six months after its publication in the official gazette.

The Copyright Law abolished Dahir No. 1-69-135 of 25 Jomada I 1390 – July 29, 1970 - on the protection of literary and artistic property.

2. Other laws

- Code of Obligations and Contracts of 1913 as amended and supplemented lastly by Dahir of May 11, 1995.
- Code of Civil Procedure of 1974 (revised 1993) - Law 1-93-206 of 1993 and Law 1-93-46 of 1993
- Criminal Code (revised 1994) - Dahir 1-59-413 of 1962. Last amended by Dahir 1-94-284 of 1994.
- Code of Criminal Procedure Dahir 1-58-261 of 1959.
- Decree No. 2.64.406 dated 5 Kaada 1384 (8 mars 1965) on the Establishment of the Copyright Moroccan Office.

3. Latest developments and perspectives

No amendments are foreseen for the time being.

4. Summary of legislation

- *Works protected by copyright*

Copyright applies to any original (created) literary or artistic work, regardless of its type, mode of expression, value or purpose. This includes works expressed in writing; computer programs; lectures, addresses, sermons and other oral works; musical works with or without text; dramatic and dramatico-musical works; choreographic works and dumb shows; audiovisual works including cinematographic works and videograms; works of fine art, including drawings, paintings, engravings, lithographs, printing on leather and all other works of fine art; works of architecture; photographic works; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relating to geography, topography, architecture or science; expressions of folklore and works

inspired by folklore; drawings of garment industry designs and titles of works provided they are original (Articles 3 and 4 of the law on Copyright and Related Rights).

Copyright also applies to the following derivative works provided they do not prejudice to the rights in the original work (Article 5 of the law on Copyright and Related Rights):

- Translations, adaptations, arrangements of music and other transformations of works, and expressions of folklore.
- Collection of literary or artistic works; expressions of folklore or simple features or data such as encyclopedias, anthologies and databases, whether in machine-readable or other form, provided that the selection and arrangement of their contents constitute intellectual creations.

Expressions of folklore are protected by copyright if used, for commercial purposes or outside the traditional or customary context, for reproduction; communication to the public through representation, performance, broadcasting or cable transmission, or any other means; adaptation, translation or any other modification; and fixation of expressions of folklore.

Copyright protection covers the publication of ancient manuscripts preserved in public libraries or public or private archives. However, the author of this publication may not oppose that these manuscripts are being republished by others based on the original text (Article 6 of the law on Copyright and Related Rights).

- *Exclusive rights of the authors and of the owners of neighbouring rights*

Copyright holders have the exclusive right to authorize or prohibit the temporary or permanent republishing or reproduction of the work, in any way and in any form whatsoever, including temporary storage in electronic form; the translation, adaptation, and alteration of the work, the rental or lending to the public of the original or copies of the audiovisual work, work incorporated in a phonogram, computer program, database or musical work in graphical form whoever the proprietor of the original or the copy rented or lent to the public; the distribution of the original and copies of the work through sale or other transfer of ownership; the performance of the work; the importation of copies of his work; the broadcast of the work; the communication of the work to the public through cable or any other means (Article 10 of the Law on Copyright and Related Rights).

The rental and lending rights do not apply to the rental of computer programs where the program itself is not the essential object of the rental.

In addition to the economic rights listed above, authors enjoy moral rights which remain with them even after they have assigned their economic rights, i.e. the right to claim authorship of the work; to use a pseudonym or remain anonymous; and to object to any distortion, deletion, modification or any other derogatory action in relation to the work that would be prejudicial to their honor or reputation (Article 9 of the Law on Copyright and Related Rights).

Neighboring rights are protected under Articles 50 to 59 of the Law on Copyright and Neighboring Rights. These rights are the rights of performing artists in their performances; producers of phonograms in their recordings; and radio and television broadcasting organizations in their radio and television programs.

Performers have the exclusive right to authorize or prohibit the broadcasting and communication to the public of their unfixed performances, except where the performance is already a broadcast performance; the fixation of their unfixed performances; the reproduction of a fixation of their performances, in any way or form whatsoever, whether permanent or temporary, including temporary storage in electronic form; the first distribution to the public of a fixation of their performances, through sale or other transfer of ownership; the rental or lending to the public of their performances; the making available to the public of their recorded performances, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them; and the importation of a fixation of their performances (Article 50).

Performers enjoy also perpetual, inalienable and imprescriptible moral rights which remain with them during their lifetime and pass to their heirs after their death. These rights are the right to claim authorship of their live and recorded performances and the right to object to any distortion, alteration or distortion of their performances (Articles 25, 39 and 50).

Producers of phonograms have the exclusive right to authorize or prohibit the direct or indirect reproduction of their phonograms, in any way or form whatsoever, whether permanent or temporary, including temporary storage in electronic form; the importation of copies of their phonograms for distribution to the public; the making available to the public, through sale or other transfer of ownership, of copies of their phonograms that have not been subject to an authorized distribution by the producer; the rental or lending to the public of copies of their phonograms; the making available to the public of their phonograms, by wire or wireless means, in such a way that members of the public may access them from a place; the communication to the public of their phonograms and the broadcast of their phonograms (Article 51).

Broadcasting organizations have the exclusive right to authorize or prohibit the re-broadcasting of their broadcasts; the fixation of their broadcasts; the reproduction of a fixation of their broadcasts; and the communication to the public of their television broadcasts (Article 52).

Performers and broadcasting organizations have only the right to a single and fair remuneration to be paid by the user for the direct or indirect use of the phonograms published for commercial purposes of broadcasting or communication to the public (Article 53).

- *Allowed use of a work without the permission of the owner of the copyright*

Limitations to exclusive rights are provided in Articles 12 to 24 of the law on Copyright and related Rights provided that they do not prejudice the legitimate interests of the author or the right holder and they are not carried out for commercial purposes. These limitations include copying for personal use; temporary reproduction of a work provided it takes place in the course of an authorized digital transmission of the work or an act aimed at making perceptible a work stored in digital form when the reproduction is of secondary nature to the transmission, takes place as part of normal use of the equipment and is automatically deleted without allowing the electronic recovery of the work; use for purposes such as research, criticism, review, advertisement or news reporting; use for illustration in teaching; use in educational institutions for educational purposes; making of isolated copies by libraries and archive services, preserving copies

of works of cultural value within official archives; use in judicial or administrative procedures; use of images of works located permanently in public places; making a single copy or an adaptation of a computer program for archiving purposes or for replacing a lost, destroyed or invalid original copy provided the original or adapted copy is destroyed upon expiration of the property title; making an ephemeral reproduction of a work in relay or during a digital transmission of the work or in the course of a process of reception of a digitally stored work; publication by newspapers, periodicals or broadcasting organizations of excerpts of a work legally made available to the public, speeches or statements delivered in public sessions of legislative or administrative bodies and scientific, literary, artistic, political, social or religious meetings, as well as extracts of an audio, visual or audiovisual work made available to the public in the course of covering current events; use in official events, religious ceremonies or activities of educational establishments; and importation for personal purposes.

However, it is not allowed without the authorization of the author or his successors the reproduction or copying of works of architecture and similar works; the reproduction or copying of all or a substantial part of a book or the notes of a musical work; the reproduction of all or a substantial part of a database in digital form, the reproduction of a computer program; or the reproduction of any work that would prejudice the legitimate interests of the author or the right holder (Article 12 of the Law on Copyright and Related Rights).

Excluded from copyright protection are official texts of a legislative, administrative or judicial nature and official translations thereof; news of current events, ideas, processes, systems, operating methods, concepts, principles, discoveries or mere data, even if set out, described, explained, illustrated or incorporated in a work (Article 8 of the Law on Copyright and Related Rights).

Expressions of folklore are excluded from copyright protection if the use is for personal reasons; for teaching or scientific research purposes; for news reporting (to the extent justified by the object of the report); and in cases where a work can be used without the authorization of the author or the right holder (Article 7 of the Law on Copyright and Related Rights).

Limitations to neighboring rights are provided under Articles 54 to 56. They include the reporting of current events, the reproduction solely for scientific research purposes, the reproduction in the context of educational activities, quotations in the form of short excerpts, the free utilization of performances once the performer has authorized the incorporation of his performance in a fixation of images or sounds and images, the free fixation or reproduction by broadcasting organizations – with certain reservations – of performances, broadcasts or phonograms published for commercial purposes provided that the fixation or reproduction is made by the broadcasting organization by means of its own facilities and for its own broadcasts.

- *Ownership of copyright*

The owner of the copyright is the creator (the author) of the work (Articles 1, 2 and 31 of the Law on Copyright and Related Rights).

In case of a joint work in which each contribution consists an integral part of the work as a whole, all the contributors shall be considered co-authors and co-owners of copyright in the work. In the case of a joint work in which a number of contributions constitute

separate and independent works in themselves, each of the joint authors shall be considered the author of his own contribution (Article 32 of the Law on Copyright and Related Rights).

In the case of a collective work, the copyright holder is the natural or legal person at the initiative and under the responsibility of which the work has been created in his name (Article 33 of the Law on Copyright and Related Rights).

In the case of a composite work, the copyright holder is the person who created it, without prejudice to the rights of the author of the pre-existing work (Article 34 of the Law on Copyright and Related Rights).

In the case of a work created by natural persons working under a work contract for a natural or legal person in the course of performing their duties or professional obligations, the author of the work is the first owner of the moral and economic rights, however, the economic rights in this work are considered to be transferred to the employer to the extent justified by the employer's usual activities at the time the work has been created, unless otherwise specified in the contract (Article 35 of the Law on Copyright and Related Rights).

In the case of an audio-visual work, co-authors of the work (such as the director, the author of the scenario, the composer of the music and the author of the preexisting work if the work is based on a preexisting work) are considered to be the holders of economic and moral rights. The contract concluded between the producer of an audio-visual work and the co-authors of this work, other than the authors of the musical works included therein, implies the transfer of the economic rights of the co-authors in their contributions to the producer, unless otherwise stipulated in the contract. However, the co-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, unless otherwise stipulated in the contract (Article 36 of the Law on Copyright and Related Rights).

In the case of anonymous and pseudonymous works, apart from the case where the pseudonym leaves no doubt as to the author's identity, the publisher whose name appears on the work is considered to be the representative of the author in the exercise of his rights unless the author revealed his identity and his capacity (Article 38 of the Law on Copyright and Related Rights).

The person whose name is shown on the work in the usual manner is considered to be the author of the work unless there is a proof to the contrary (Article 38 of the Law on Copyright and Related Rights).

In case of transfer of authorship, the copyright holder is the person to whom the work was transferred.

- *Protection of the foreign works*

In addition to works of Moroccan authors (wherever they reside), the protection of the copyright law covers the following artistic and literary works (Article 66 of the Law on Copyright and Neighboring Rights):

- Works of non-Moroccan authors who have their habitual residence or headquarter in Morocco.

- Works of producers of audio-visual works who have their headquarters or habitual residence in Morocco.
- Works first published in Morocco.
- Works first published outside Morocco provided that they are published in Morocco within 30 days from their publication in the other country.
- Works of architecture erected in Morocco or works of fine art forming part of a building located in Morocco.
- Works protected under an international treaty to which Morocco is party.

In addition to performances of Moroccan performers and phonograms of Moroccan producers, the protection of the copyright law covers the following (Article 67 of the Law on Copyright and Neighboring Rights):

- Performances that take place in Morocco.
 - Performances fixed in a phonogram protected under the copyright law.
 - Performances not fixed in a phonogram but incorporated in a broadcast protected under the copyright Law.
 - Phonograms which the first fixation of sounds is undertaken in Morocco.
 - Phonograms first produced in Morocco.
 - Broadcasts of broadcasting organizations which have their headquarters in Morocco.
 - Broadcasts transmitted from a station located in Morocco.
 - Performances, phonograms and broadcasts protected under an international treaty to which Morocco is party.
- *Period of copyright protection*

Copyright protection is provided for the lifetime of the author and 70 years after the author's death; 70 years from the end of the year of the death of the last surviving author in the event of co-authored work; 70 years from the end of the calendar year of the first authorized publication for anonymous or pseudonymous works – or 70 years from the end of the calendar year of the making of the work available to the public, should the work not have been published within 50 years from its creation – or 70 years from the end of the calendar year of the making of the work should the work not have been made available to the public within 50 years from its creation - or 70 years after the author's death when the pseudonym adopted by the author leaves no doubt as to his identity or if the author of an anonymous or pseudonymous work discloses his identity during the above mentioned period; 70 years from the end of the calendar year of first authorized publication for collective and audiovisual works – or 70 years from the end of the calendar year of the making of the work available to the public should the work not have been published within 50 years from its creation – or 70 years from the end of the calendar year of the making of the work should the work not have been made available to the public within 50 years from its creation; and 70 years from the end of the calendar year of first authorized publication for works of applied arts – or 70 years from the end of the calendar year of the making of the work should the work not have been published within 50 years from its creation. Moral rights are protected in perpetuity and can be transferred by means of succession (Articles 25 to 30 of the Law on Copyright and Neighboring Rights).

The Law provides for a retroactive protection for all works, performances, phonograms and broadcasts created or fixed before the entry into force of the Law on Copyright and

neighboring Rights provided that they have not fallen into the public domain (Article 69 of the Law on Copyright and Neighboring Rights).

Performances, phonograms and broadcasts are protected for 70 years from the end of the calendar year of the first authorized publication – or 70 years from the end of the calendar year of the making of the work available to the public, should the work not have been published within 50 years from its creation (Articles 57 to 59 of the Law on Copyright and Neighboring Rights).

- *Registration*

Copyright protection does not depend on formalities. Protection is acquired as soon as any original literary or artistic work is created even if not fixed on a physical medium. The deposit of the work before the Moroccan Copyright Office allows the author to benefit from the income of copyright against the exploitation of the work (Article 2 of the Law on Copyright and Neighboring Rights).

The Moroccan Copyright Office exercises the tasks previously empowered to the African Copyright Office. It is solely responsible for collecting and assigning copyrights in all their existing and future forms. It administers in Morocco the interests of foreign collective management societies for copyright and neighboring rights in the framework of bilateral agreements between the office and the said societies (Article 3 of the decree on the Establishment of the Copyright Moroccan Office).

The protection and exploitation of Copyright and Neighboring Rights are entrusted to the Moroccan Copyright Office (Article 60 of the Law on Copyright and Neighboring Rights).

5. International treaties

Morocco is a member of the following International Convention and Treaties on Copyright and Related Rights:

- [Berne Convention for the Protection of Literary and Artistic Works](#)
- [Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite](#)
- [WTO TRIPS Agreement on Trade Related Aspects of Intellectual Property Rights](#)
- [Universal Copyright Convention](#) (UCC)
- Arab Convention for the Protection of Author's Rights signed in November 1901.

Morocco signed on December 3, 2004, the [Arab Copyright & Neighboring Rights Convention](#) but did not ratify it yet.

Morocco is also a party to a number of bilateral Free Trade Agreements (FTA) which include commitments on copyright:

- Morocco-EFTA Free Trade Agreement (FTA with the European Free Trade Association _ Iceland, Liechtenstein, Norway and Switzerland_ in force since December 1, 1999).
- Morocco-EU Association Agreement (FTA with the European Union in force since March 1, 2000).

- Morocco-US Free Trade Agreement (FTA with the United States in force since 1 January, 2006. It requires Morocco to abide by a standard of copyright protection consistent with U.S. standards and international trends).

The EU and EFTA require Morocco to adhere to the [Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations](#) (Rome, 1961). The US and EFTA require Morocco to ratify or accede to the following agreements:

- [WIPO Copyright Treaty](#) (Geneva, 1996) – WCT (ratification in process)
- [WIPO Performances and Phonograms Treaty](#) (Geneva, 1996). – WPPT (ratification in process).

II. Measures and remedies

1. Copyright infringement

There is no clear definition of copyright infringement under the Moroccan laws. However, definition can be deduced from several provisions of the Law on Copyright and Neighboring Rights (Articles 63, 64, 65 and 65.4) which identify acts that constitute copyright infringements, in particular the following:

- Violating intentionally, unlawfully and for profit-making purposes the provisions of the Law on Copyrights and Neighboring Rights in particular the exclusive rights (moral and economic) of copyright holders and holders of neighboring rights including violations committed by service providers.
- Using unlawfully and without the authorization of the Moroccan Copyright Office expressions of folklore in a manner not permitted under the copyright law.
- Importing and Exporting pirated or counterfeit copies in violation of the provisions of the Law on Copyright and Neighboring Rights.
- Unlawfully manufacturing or importing for sale, rental or circulation of any work or pirated copies, or any device, means or tool designed or made specifically for circumventing technological measures used by the author or the owner of the neighboring right to broadcast, put into circulation, organize or administer copyrights and neighboring rights or for the preservation of the purity of the copies.
- Manufacturing, assembling, modifying, importing, exporting, selling, leasing, or otherwise distributing a tangible or intangible device or system, knowing or having reason to know that the device or system is primarily of assistance in decoding an encrypted program-carrying satellite signal without the authorization of the lawful distributor of such signal.
- Willfully receiving or further distributing a program-carrying signal that originated as an encrypted satellite signal knowing that it has been decoded without the authorization of the lawful distributor of the signal.
- Unlawfully circumventing, restricting or impeding any effective technological measure.
- Manufacturing, importing, distributing, or offering to the public, providing, or otherwise traffics in devices, products, or components, or offers to the public or provides services, that are promoted, advertised, or marketed for the

purpose of circumvention, restriction or impediment of any effective technological measure.

- Knowingly removing or altering any rights management information.
- Distributing or importing for distribution rights management information knowing that the rights management information has been removed or altered without authority.
- Distributing, importing for distribution, broadcasting, communicating, or making available to the public copies of works, performances, or phonograms, knowing that rights management information has been removed or altered without authority.

2. Remedies to protect copyright holders

The Copyright law, the Code of Civil Procedures, the Code on Obligations and Contracts and the Criminal Code provide for a number of remedies that may apply for protecting copyright and neighboring rights holders in the case of violations of their rights. These remedies include the following:

- Provisional measures may be taken by the court with competence to hear civil cases to prevent an imminent or continuation of infringement of copyright and related rights. In this case, the judge may order the seizure of infringing goods and any material or equipment used in copying, their packaging as well as any related documents, accounts or business papers (Articles 61 and 62 of the Law on Copyright and Neighboring Rights and Articles 148 and 149 of the Law on Civil Procedures).
- Legal action may be instituted by the public prosecutor ex-officio or at the request of the right holder including fair and equitable civil judicial procedures (Articles 61, 61.1 and 65.2 of the Law on Copyright and Neighboring Rights, Articles 59, 147, 150, 152, 153, 148 and 149 of the Code of Civil Procedures).
- Seizure of suspect articles and infringing goods may be ordered by the court or the officers of the copyright office or the customs ex-officio or at the request of right holders (Articles 60.2, 61, 61.1 to 61.7 and 64.3 of the Law on Copyright and Neighboring Rights).
- Destruction of the suspect goods, their packaging and equipment used to commit the infringing acts may be ordered by the court as well as the disposal outside the channels of commerce of the infringing goods so as to minimize the risk of further infringements, without any compensation of any kind to the defendant (Articles 61.5, 62 and 64.3 of the Law on Copyright and Neighboring Rights).
- Confiscation of all assets in connection with the infringed act may be ordered, as well as all pirated copies, their packaging, materials and equipment used, without any compensation of any kind to the defendant (Article 64.3 of the Law on Copyright and Neighboring Rights).
- Fair and adequate damages may be imposed including moral damages, recovery of lost profits, trial expenses, witnesses' compensations, fees charged by experts, fees of trial proceedings, attorney's fees and compensation taking into consideration the importance of the material and moral injury suffered by the right holder and the extent the infringer benefited by exploiting the work (Articles 62, and 63 of the Law on Copyright and Neighboring Rights, Articles 77 and 264 of the Code on Obligations and Contracts, and Article 124 of the Code of Civil Procedures).

- Confiscation of sums equal to the proportion of the profits derived from illegal reproduction, performance or distribution, as well as confiscation of any equipment specifically installed with a view to illegal reproduction and all infringing copies and objects (Article 578 of the Criminal Code).
- Criminal sanctions may be imposed, in particular imprisonment for a minimum term of two months and a maximum term of six months, and/or a fine varying from 10,000 to 100,000 Dirham. In case of recidivism, the term of imprisonment and the amount of fine should be doubled. In case the violator commits another infringement of the Copyright Law, less than five years after the first judgment became final, the term of imprisonment sanctions will vary between one to four years of imprisonment and/ or a fine between 60,000 and 600,000 Dirham (Articles 64, 64.1, and 64.2 of the Law on Copyright and Neighboring Rights and Articles 575 and 577 of the Criminal Code).
- Permanent or temporary closure of the establishment where the crime was committed by the offender or his accomplices may be sentenced (Article 64.3 of the Law on Copyright and Neighboring Rights).
- Publication of the court decision in one or more local newspapers designated by the court may be at the expense of the convicted person ordered, provided that the cost of publication does not exceed the maximum fine incurred (Article 64.3 of the Law on Copyright and Neighboring Rights).

3. Provisional measures

The Copyright Law (Articles 61 and 62) and the Code of Civil Procedures (Articles 148 and 149) permit the court with competence to hear civil cases to take provisional measures to prevent an imminent or continuation of infringement of copyright and neighboring rights. In this case, the judge may order the seizure of infringing goods (in particular copies of protected works or phonograms suspected of having been made, imported or in the course of export without the authorization of the copyright holder) and any material or equipment used in copying, their packaging and related documents, accounts or business papers.

In cases where the court decides the cessation of an infringing act, it also orders the payment of damages equivalent to at least 50% of the value of the operation.

4. Penalties for copyright infringement

The Copyright law, the Code of Civil Procedures, the Code on Obligations and Contracts and the Criminal Code provide for penalties to be applied in case of copyright or related rights infringements. These penalties are the following:

- Fair and adequate damages may be imposed including moral damages, recovery of lost profits, trial expenses, witnesses' compensations, fees charged by experts, fees of trial proceedings, attorney's fees and compensation taking into consideration the importance of the material and moral injury suffered by the right holder and the extent the infringer benefited by exploiting the work (Articles 62, and 63 of the Law on Copyright and Neighboring Rights, Articles 77 and 264 of the Code on Obligations and Contracts, and Article 124 of the Code of Civil Procedures).

- Seizure of suspect articles and infringing goods may be ordered by the court or the officers of the copyright office or the customs ex-officio or at the request of right holders (Articles 60.2, 61, 61.1 to 61.7 and 64.3 of the Law on Copyright and Neighboring Rights).
- Destruction of the suspect goods, their packaging and equipment used to commit the infringing acts may be ordered by the court as well as the disposal outside the channels of commerce of the infringing goods so as to minimize the risk of further infringements, without any compensation of any kind to the defendant (Articles 61.5, 62 and 64.3 of the Law on Copyright and Neighboring Rights).
- Confiscation of all assets in connection with the infringed act may be ordered, as well as all pirated copies, their packaging, materials and equipment used, without any compensation of any kind to the defendant (Article 64.3 of the Law on Copyright and Neighboring Rights).
- Confiscation of sums equal to the proportion of the profits derived from illegal reproduction, performance or distribution, as well as confiscation of any equipment specifically installed with a view to illegal reproduction and all infringing copies and objects (Article 578 of the Criminal Code).
- Criminal sanctions may be imposed, in particular imprisonment for a minimum term of two months and a maximum term of six months, and/or a fine varying from 10,000 to 100,000 Dirham. In case of recidivism, the term of imprisonment and the amount of fine should be doubled. In case the violator commits another infringement of the Copyright Law, less than five years after the first judgment became final, the term of imprisonment sanctions will vary between one to four years of imprisonment and/ or a fine between 60,000 and 600,000 Dirham (Articles 64, 64.1, and 64.2 of the Law on Copyright and Neighboring Rights and Articles 575 and 577 of the Criminal Code).
- Permanent or temporary closure of the establishment where the crime was committed by the offender or his accomplices may be sentenced (Article 64.3 of the Law on Copyright and Neighboring Rights).
- Publication of the court decision in one or more local newspapers designated by the court may be at the expense of the convicted person ordered, provided that the cost of publication does not exceed the maximum fine incurred (Article 64.3 of the Law on Copyright and Neighboring Rights).

5. Requirements for foreign persons

As a general rule, foreign natural and legal persons shall enjoy the right to take action in Moroccan courts. Under Article 1 of the Code of Civil Procedure, "only those with standing, capacity and interest may take part in legal proceedings to assert their rights. The judge shall establish, *proprio motu*, the lack of standing or capacity or interest or the lack of authorization when the latter is required." Accordingly, any natural or legal person may assert his rights, after payment of a court fee, except where legal aid is provided.

Natural or legal persons holding copyrights or neighboring rights and not having their domicile or registered office in Morocco are not required to appoint an agent having his domicile or registered office in Morocco (as it is the case for holders of industrial property rights) as they may be represented by the Moroccan Copyright Office.

In order to take part in court proceedings all holders of intellectual property rights must have themselves represented by an attorney on the roll of one of Morocco's bar associations. Thus, Article 31 of Law No. 1-93-162 Organizing the Practice of the Profession of Attorney stipulates that "only attorneys on the roll of the Kingdom's bar associations shall be authorized, when representing or assisting the parties, to present petitions, arguments and defense pleadings in all cases other than criminal cases, maintenance cases before the courts of first instance and appeal courts, and proceedings falling within the jurisdiction of the courts of first instance against which no appeal lies." However, under the same Article, "attorneys practicing in a foreign country linked with Morocco by a convention under which nationals of each of the Contracting States have access in the other to the profession of attorney may conduct proceedings before the Moroccan courts provided that they elect domicile with an attorney on the role of one of the Kingdom's bar associations and, unless the convention otherwise provides, have been specially authorized to do so, on a case-by-case basis, by the Minister of Justice."

III. Enforcement

1. Enforcement authorities

a) Authorities responsible for enforcing the copyright law

The police, the public prosecutor, the judiciary, customs officials, and officers of the Moroccan Copyright Office, are the competent authorities responsible for enforcing the copyright law and combating piracy in Morocco (Articles 60 to 61.4 and 65.2 of the Law on Copyright and Neighboring Rights and Articles 148 and 149 of the Code of Civil Procedures).

The protection and exploitation of Copyright and Neighboring Rights are entrusted to the Moroccan Copyright Office that has the right to go to court to defend its entrusted interests (Article 60, 60.1, 60.2 and 60.3 of the Law on Copyright and Neighboring Rights).

Officers of the Moroccan Copyright Office commissioned by the Supervising Authority and sworn in to this effect have police powers with regard the implementation of the Copyright Law. They are empowered to investigate copyright and neighboring rights violations. They are empowered, as soon as they notice any violation, to seize the suspect goods whether phonograms, videograms or any other recording medium used, as well as all equipments used in the illegal reproduction (Article 60.2 of the Law on Copyright and Neighboring Rights).

Public authorities at all levels are required to provide assistance and support to the Moroccan Copyright Office as well as its agents in connection with the exercise of their functions (Article 60.3 of the Law on Copyright and Neighboring Rights).

General prosecutors and the judiciary act under the authority of the Ministry of Justice, officers of the Moroccan Copyright Office under the Ministry of Communication, the police under the Ministry of Interior and customs officials under the Ministry of Finance.

b) Enforcement bodies entitled to act *ex-officio* in copyright infringement cases

Officers of the Moroccan Copyright Office commissioned by the Supervising Authority and sworn in to this effect have police powers with regard the implementation of the Copyright Law. They are empowered to investigate copyright and neighboring rights violations. They are empowered, as soon as they notice any violation, to seize the suspect goods whether phonograms, videograms or any other recording medium used, as well as all equipments used in the illegal reproduction (Article 60.2 of the Law on Copyright and Neighboring Rights).

Any infringement of copyright or neighboring rights may be prosecuted by the public prosecutor *ex-officio* without the need of a complaint brought by an interested party or the right holder (Article 65.2 of the Law on Copyright and Neighboring Rights).

The Administration of Customs and Excise (Customs Authority) may act *ex officio* at the borders in copyright or neighboring rights infringement cases. Accordingly, when Customs Authority determines or suspects that the imported, exported or in transit goods are counterfeit or pirated, it may order, on its own initiative (*ex-officio*), the suspension of the release of such goods. In this case, it shall notify, without delay, the right holder of the measures taken and provides him, following his written request, the names and addresses of the consignor, the importer and the consignee and the quantity of the goods in question. The importer or the holder of the goods should also be notified of this measure without delay. The suspension measures should be stopped by the Customs Authority, if the right holder does not declare, within ten working days from the date he was notified about the suspension of the goods, that provisional measures have been ordered by the court or that he has filed a legal action with the competent court and has deposited with the court the required financial guarantee to prevent abuse and to guarantee any damages that the defendant may incur if his claim was not grounded (Articles 61.4 to 61.7 of the Law on Copyright and neighboring Rights).

c) Courts dealing with copyright cases

There are no specialized courts for copyright or intellectual property rights (IPR) in Morocco. The competent courts are the regular courts (civil, criminal and administrative). The court having jurisdiction over civil remedies is the competent court of first instance in charge of civil cases. The court having jurisdiction over criminal offence is the competent court of first instance in charge of criminal cases.

2. Enforcement at the border

The Administration of Customs and Excise (Customs Authority) is the Authority responsible for combating piracy at the borders (Articles 61.1 to 61.7 of the Law on Copyright and neighboring Rights).

Customs Authority may act, on its own initiative (*ex-officio*), at the borders in copyright or neighboring rights infringement cases. Accordingly, when Customs Authority determines or suspects that the imported, exported or in transit goods are counterfeit or pirated, it may order *ex-officio* the suspension of the release of such goods. In this case, it shall notify, without delay, the right holder of the measures taken and provide him, following his written request, with the names and addresses of the consignor, the importer and the consignee and the quantity of the goods in question. The importer or the holder of the

goods should also be notified of these measures without delay. The suspension measures should be stopped by the Customs Authority, if the right holder does not declare, within ten working days from the date he has been notified about the suspension of the goods, that provisional measures have been ordered by the court or that he has filed a legal action with the competent court and has deposited with the court the required financial guarantee to prevent abuse and to guarantee any damages that the defendant may incur if his claim was not grounded.

The Customs Authority may also order the suspension of the release into free circulation of goods suspected to be infringing copyright or neighboring rights upon a written request of the holder of copyright or neighboring rights. In this case, the request must be supported by adequate evidence presuming that there is an infringement of a protected right, and provide sufficient information related to the suspect goods so that they can be reasonably recognizable by the Customs Authority. The request is valid for a period of one year or for the remaining period of copyright or neighboring rights protection if it is less than one year.

The applicant (right holder) and the defendant shall then be notified, without delay, by the Customs Authority of the measures taken regarding the suspension of the release of the suspect goods. In this case, the applicant should declare to the Customs Authority, within ten working days from the date he was notified about the suspension of the goods, that provisional measures have been ordered by the court or that he has filed a legal action with the competent court and has deposited with the court the required financial guarantee to prevent abuse and to guarantee any damages that the defendant may incur if his claim was not grounded.

For the purposes of undertaking the legal action, the applicant may obtain from the Customs Authority the names and addresses of the consignor, the importer and the consignee and of the quantity of the goods in question.

If the court, in its final decision, affirms that the suspect suspended goods are counterfeit or pirated goods, then, the destruction of these goods should be ordered except in exceptional circumstances. The aforementioned goods shall not, under any circumstances, be subject to re-exportation or to any other customs procedures, other than in exceptional circumstances.

In cases where the goods are released upon becoming evident that there is no infringement or threat of infringement of copyright or neighboring rights, the court may order the right holder, following a request by the importer, to pay adequate compensation for all the damages and losses resulting from such procedures.

The suspension of the release into free circulation by the Customs Authority ex-officio or upon a request by the right holder does not engage the responsibility of the Customs Authority.

Goods of a non-commercial nature contained in travelers' personal luggage or sent in small consignments shall not be subject to the provisions of the Law on Copyright and Neighboring Rights relating to border enforcement.

IV. Public Awareness

1. Awareness campaigns and actions

Awareness campaigns against piracy are organized including seminars, video clips, radio and TV programs, posters, and articles in newspapers and magazines.

2. Promotion of legal exploitation

3. Associations and organizations with awareness-raising purpose

- Collective Management Societies for Copyright and Neighboring Rights

The collective management body in Morocco is the Moroccan Copyright Office (Bureau Marocain du Droit d'Auteur). <http://www.bmda.org.ma/>

- ICC-Morocco Commission on Intellectual Property

The intellectual property policy of the International Chamber of Commerce (ICC) is formulated by its Commission on Intellectual Property, which gathers over 300 business executives and private practitioners from 50 countries. The commission identifies key intellectual property issues facing the international business community and contributes the business voice to debates to resolve these. It also works to raise awareness of intellectual property by initiatives such as its annual Roadmap on Current and Emerging IP Issues for Business and other publications. The Commission on Intellectual Property meets twice each year in plenary, but carries out work constantly throughout the year in issue-specific task forces. The Commission also works closely with intergovernmental organizations involved in intellectual property policy-making, such as the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO) where ICC has observer status. <http://www.iccwbo.org/policy/ip/id2465/index.html>

- Saba & Co. Intellectual Property

Saba is the longest-established and most renowned intellectual property firm in the Arab world. Saba is active in all areas of prosecution, registration, and enforcement of intellectual property rights and provides the full range of related legal and paralegal services. On the enforcement front, the firm's expertise extends to all areas of intellectual property, including trademark infringement, unfair competition, misleading practices, as well as similar actions. Saba coordinates with private investigators and government enforcement agencies to obtain evidence on infringing use; conducts civil litigation against infringers; provides technical expertise to consumer advocacy groups to highlight the social costs of counterfeit commerce; and works with government enforcement agencies to prosecute and take administrative action against infringers. Also, Saba strongly believes that the key to a successful anti-piracy/anti-counterfeit policy lies in effective border measures and the proactive support of the local law enforcement agencies. As such, Saba continuously works with the government authorities concerned in the countries of the region to prompt them to tighten the laws on counterfeiting. Saba is also a founding member of the local chapters of the Brand Protection Group for Lebanon, Jordan, Syria, and GCC and Yemen. <http://www.sabaip.com/index.aspx>

- Arab Society for Intellectual Property

The Arab Society for Intellectual Property (ASIP) is a specialized Arab professional body which was established in 1987. ASIP aims at promoting and developing intellectual property protection in the Arab world, through the encouragement of the development

and modernization of IP systems and the laws and regulations that govern them. ASIP is dedicated to the building of capacities and expertise among IP professionals and practitioners as well as enhancing awareness among the general public through the utilization of a number of tools in order to successfully achieve its objectives, by holding education programs, conferences, and seminars, research projects and studies. <http://www.aspip.org/Default.aspx?&lang=en>

4. Best practices

V. Capacity-building

1. Training

2. Establishment of specialized units and intersectoral groups

- Establishment of an inter-ministerial Commission against piracy

A permanent inter-ministerial commission for supervising sound and audiovisual recordings and fighting against counterfeit and piracy has been established.

3. Best practices

VI. Other

1. TPM/DRM

The Law on Copyright and Neighboring Rights (Article 65) provides protection for Technological Protection Measures (TPM) through imposing criminal sanctions on any person who commits any of the following acts:

Unlawfully manufacturing or importing for sale, rental or circulation of any work or pirated copies, or any device, means or tool designed or made specifically for circumventing technological measures used by the author or the owner of the neighboring right to broadcast, put into circulation, organize or administer copyrights and neighboring rights or for the preservation of the purity of the copies.

- Manufacturing, assembling, modifying, importing, exporting, selling, leasing, or otherwise distributing a tangible or intangible device or system, knowing or having reason to know that the device or system is primarily of assistance in decoding an encrypted program-carrying satellite signal without the authorization of the lawful distributor of such signal.
- Willfully receiving or further distributing a program-carrying signal that originated as an encrypted satellite signal knowing that it has been decoded without the authorization of the lawful distributor of the signal.
- Unlawfully circumventing, restricting or impeding any effective technological measure.

“Effective technological measure” means any technology, device, or component that, in the normal course of its operation, controls access to a protected work, performance, phonogram, or other protected subject matter, or protects any copyright or any neighboring right (Article 65).

The sanctions provided by the Law for infringing copyright and neighboring rights apply also to any violation of effective technological protection measures.

- 2. Licensing Schemes**
- 3. Optical Discs**
- 4. Hotlines**
- 5. Relevant contacts and links**

Government Agencies

Copyright Office

Moroccan Copyright Office
6, Rue Mohamed Jazouli
PO. Box 35
Rabat, Morocco
Tel.: +212 37 72 21 97
+212 37 73 36 99
Fax: +212 37 73 26 40
E-mail: bmda@iam.net.ma
Website: www.bmda.org.ma

Collective Management Societies

As above, under Copyright Office

Sources for Information on National Laws

Secrétariat Général du Gouvernement
Rabat
Tel.: +212 7 76 81 18/02/08
Fax: +212 7 76 10 62

Contact point for artistic and literary property rights

Ministère de la communication
Rue Beni Mellal
Rabat
Tel.: +212 7 76 87 26
+212 7 76 65 91
Fax: +212 7 76 77 12

TRIPS enquiry point

Ministère du commerce extérieur
63, avenue Moulay Youssef
Rabat
Tel.: +212 7 70 33 63
Fax: +212 7 70 01 37

Arab IP Center of the League of Arab States:

<http://www.arabipcenter.org>