

UNESCO
WORLD ANTI PIRACY OBSERVATORY

MOZAMBIQUE

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I. Legislation

1. Copyright laws

The main legislation is the [Law No.4/2001 of February 27, 2001, Approving Copyright](#)¹.

2. Other laws

In addition to the principal legislation above, the Constitution of Mozambique protects copyright (Article 94 (a) and (b)).

3. Latest developments and perspectives

The Law No. 4/2001 of February 27, 2001, Approving Copyright came into force the 28th of May 2001. It repeals the Code of Copyright Approved by Decree-Law No. 46,980 of April 27 1966.

Regulations which are supposed to give effect to the establishment of collective management organizations (which are keys to the fight against piracy) have not yet been promulgated. The government is also in the process of amending the law so that it can comply with the internet treaties (WCT and WPPT).

4. Summary of legislation

- *Works Protected*

The following works are protected under the Act;

- Written works including computer programs;
- Lectures, addresses, sermons;
- Musical works with or without accompanying words;
- Dramatic and dramatic-musical works;
- Choreographic and mimed works;
- Audio-visual works;
- Works of fine art;
- Works of architecture;
- Photographic works;
- Works of applied art;
- Illustrations, maps, plans, sketches, 3 dimensional works relating to geography, topography, architecture or science;
- Expressions of folklore; and
- Derived works (translations, compilations of works, adaptations etc) [section 4].

The author of a work is presumed to be the person whose name appears on the work in the usual manner [section 34].

¹ Source : *WIPO*

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

Exclusive Rights of the authors

Copyright comprises rights of an economic character and rights of a personal nature, which are economic and moral rights respectively [section 8].

a) Economic Rights

The economic rights enjoyed by creators of literary and artistic works in Mozambique include the right of; reproduction, translation, adaptation, making copied of his work available for sale to the public, presentation of a performance, import or export of copies and communication to the public for broadcasting by cable or other means,

b) Moral rights

The moral rights which are of a personal nature includes right to claim authorship, right to remain anonymous or to use a pseudonym and the right to object to any distortion, mutilation or modification of his work or any derogatory action prejudicial to his honor or reputation or to the authenticity or integrity of the work.

Exclusive right of the owners of neighboring rights

The rights of performers, producers of phonograms and broadcast [section 40]

Performers enjoy both moral and economic rights. The enjoyment of the economic rights is dependent upon the contract transferring the economic rights on the license granted by the authors or co-authors and on the law. Performers have the to authorize the following;

- Broadcasting of their performance;
- Communication to the public of the performance;
- Recording an unrecorded performance;
- Reproduction of a recorded performance;

The right of authorization of producers of phonograms includes; direct or indirect reproduction of copies of his phonogram, recording of his broadcast programs and reproduction of a recording of his broadcast [section 44].

- *Exceptions and limitations to copyright*

The law provides for limitations to the economic rights granted under copyright. Such limitations permit the use of protected works without the consent or authorization of the owner of the work. However such uses are not outright but should not prejudice the normal exploitation or harm the legitimate interests of the author and provided the source is acknowledged. The limitations include;

- (1) Reproduction or importation of a work for private purposes [section 9];
- (2) Reproduction in the form of a quotation [section 10];
- (3) Use for educational purposes [section 11];
- (4) Reprographic reproduction for libraries and archive services [section 12];
- (5) Reproduction for judicial and administrative reasons [section 13];
- (6) Reproduction for purposes of information [section 14];
- (7) Use of images located in a place open to the public [section 15];

- (8) Reproduction and adaptation of a computer program for use according to the purposes which it was obtained and necessary for archiving and for replacing a lawfully held copy [section 16];
- (9) Temporary recording by a broadcasting organization for non-commercial purposes [section 17];
- (10) For public lending to institutions whose service or activities are not directly or indirectly for profit making [section 18]; and
- (11) Public presentation or ceremony for official or religious ceremonies [section 20].

Fair use of related rights

- Private use;
 - Reporting of current events;
 - Use intended exclusively for education and scientific research;
 - Quotations in the form of short extracts; and
 - Recording or reproduction done by broadcasters for its own broadcasts using its own facilities provided that the reproductions are destroyed within a period equal to that applicable to recordings and reproduction of works protected by copyright under Article 17(2) of the Copyright Law with the exception of a single copy which may be kept exclusively for archiving purposes
- *Protection of foreign works*

The provisions of the law apply to both nationals of Mozambique and foreign nationals in terms of section 3 of the Act. This is provided for in section 41 of the Act

- *Period of copyright protection*

The period of protection provided for in the Act applies to economic rights. The protection of economic rights shall expire 70 years after the death of the author, even in the case of a work disclosed or published posthumously [section 22(1)].

The protection of non-economic rights in **not limited** in time [section 22(2)].

The economic rights in a work of joint authorship are protected during the lifetime of the last surviving author, and for a further 70 years following his death.

Works of applied art, collective or audiovisual works and anonymous and pseudonymous works are also protected for 70 years.

The term of protection for performance is 50 years from the end of year of recording in the case of performances recorded on a phonogram and the end of the year in which the performance takes place in the case of performances that are not recorded on a phonogram.

The term of protection for phonograms is 50 years. The term of protection for broadcast programs is 25 years.

- *Registration*

The law does not provide for the need to register the work in order for the author or performer to acquire the rights granted under the Act. The rights of the author, performer or producer are acquired by virtue of the creation of a work, by contract or by licence [section 55]. However, it states that registration may be done by willing authors for purposes of publicizing the work and the protected rights [section 56].

5. International Conventions and Treaties

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

- [WTO Agreement on Trade Related Aspects of Intellectual Property Rights](#)

Mozambique is a member of the [African Regional Intellectual Property Organization](#) (ARIPO). ARIPO has extended its mandate to copyright and related rights and has developed a protocol on copyright and related rights which is to be adopted by Member States.

Copyright in Mozambique is protected through international treaties and conventions in terms of section 76 and the Copyright Law No. 4/2001.

II. Measures and Remedies

1. Copyright infringement

The law does not specifically provide for a definition of infringement and only states the person who fraudulently uses as being his own creation or performance, phonogram or broadcast program that is total or partial reproduction of another's work or performance [section 62]. It further states that for there to be infringement it is essential that reproduction be made by the same process or in the same format as the original [62(3)]. Infringement actions include;

- Transcriptions; and
- Compilations or collection of several of an author's works whether published or unpublished without due authorization.

Any person who fraudulently uses as being his own a creation or performance of a work, performance or phonogram or broadcast program is guilty of an offence under section 62 of the Act.

Infringement of the rights provided in the Law is punishable under civil and criminal law.

Representation in cases of infringement is by injured party or his legal representative to institute legal proceedings in defense of his infringed rights.

2. Remedies to protect copyright holders

Infringement of copyright and related rights is punishable under civil and criminal law. The civil remedies include; damages for losses, confiscation of infringing copies.

Copyright infringement is punishable by imprisonment and corresponding fine and in the event of a repeat offence; the penalty shall be increased in accordance with the general provisions of criminal law [section 65].

Third party rights against the author are also protected against infringement. An author can be imprisoned if he/she prejudices the rights of third parties [section 65(4)].

3. Provisional measures

The law provides for:

- Confiscation [section 70]
- Destruction of infringing copies [section 70]
- Precautionary measures such as the right to resort to the courts to demand that the person responsible for the damage be prevented from continuing with the unlawful activity, or repeating the violations committed.

4. Penalties for copyright infringement

Infringement of copyright and related rights is punishable under civil and criminal law. The civil remedies include; damages for losses, confiscation of infringing copies.

Copyright infringement is punishable by imprisonment and corresponding fine and in the event of a repeat offence; the penalty shall be increased in accordance with the general provisions of criminal law [section 65].

Third party rights against the author are also protected against infringement. An author can be imprisoned if he/she prejudices the rights of third parties [section 65(4)].

5. Requirements for foreign persons

Works of foreign authors are protected by virtue of the fact the Mozambique is a signatory to the Berne Convention which provides for the equal treatment of national and foreign authors.

III. Enforcement

1. Enforcement authorities

a) Authorities responsible for enforcing the copyright law

1. Ministry of Education and Culture, is the principal Ministry responsible for the administration of copyright and related rights.
2. National Institute for Book and Record are responsible for copyright and the implementation of rights protection management information and technological devices.

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

Information not available

c) Courts dealing with copyright cases

Information not available

2. Enforcement at the boarder

The law does not provide for border measures.

IV. Public Awareness

1. Awareness campaigns and actions

Information not available

2. Promotion of legal exploitation

Information not available

3. Associations and organizations with awareness-raising purpose

Information not available

4. Best practices

Information not available

V. Capacity-building

1. Training

Information not available

2. Establishment of specialized units and intersectoral groups

Creation of the National Institute for Book and Record responsible for copyright and the implementation of rights protection management information and technological devices.

Creation of a collecting society: the Mozambiquan Society of Authors (SOMAS).

The society is responsible for protecting the interests of authors and composers of musical works. There is no society that represents the interests of authors and publishers of books.

Creation of Associations of Musicians and Writers

Musicians and authors have created associations for purposes of protecting their rights and interests

3. Best practices

Information not available

VI. Other

1. TPM/DRM

In order to minimize on infringement and or easily identify infringement the law provides for the need to inscribe rights management information indicating that the work is protected [section 54]. Such information shall include the copyright symbol accompanied by the year of first publication, the name of the owner of the producer's rights and the country which the recording took place [section 54].

2. Licensing schemes

The author may grant an exclusive which permits its holder to the exclusion of any other person including the author himself to perform in the manner permitted the acts to which the license refers or non-exclusive license which permits its holder to perform in the manner permitted the acts to which the license refers at the same time as the author and other holders of non-exclusive licenses [section 36].

The law provides for reproduction of legitimately published audiovisual works for private purposes provided a payment has been made by producers and importers of equipment and physical material used for the reproduction, and received and distributed by the collective copyright management organization [section 21].

3. Optical discs

Information not available

4. Hotlines

Information not available

5. Contact details

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Mr. Alfredo Chissano
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