



TERRALEX®

CROSS-BORDER COPYRIGHT GUIDE 2018



Lithuania

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1. Legislation and regulation

1.1 What are the main sources of copyright law?

The main source of copyright legislation in the Republic of Lithuania is the Law on Copyright and Related Rights (LCRR). Its last revision came into effect on 1 August 2017.

Although the Republic of Lithuania is not a common law legal system, case law is still used to interpret and set precedents in law. Therefore, judicial decisions contribute to the sources of copyright in the Republic of Lithuania.

2. Subsistence of copyright

2.1 What type of works can be protected by copyright?

The subject matter to which copyright applies includes original literary, scientific and artistic works which are the result of the creative activities of an author, whatever the objective form of their expression.

The subject matter to which copyright applies shall comprise the following:

- books, brochures, articles, diaries and other literary works, whatever the form of their expression, including in electronic form, as well as computer programs
- speeches, lectures, sermons and other oral works
- written and verbal works of science (scientific lectures, studies, monographs, deductions, scientific projects and documented project material, as well as other works relative to science)
- dramatic, dramatic-musical, pantomime, choreographic and other works intended to be performed on the stage, theatrical productions, scenarios and shooting scripts
- musical works with or without accompanying words

- audiovisual works (motion pictures, television films, television broadcasts, video films, diafilms (filmstrips) and other works expressed by cinematographic means), radiophonic works
- works of sculpture, painting and graphic art, monumental decorative art, other works of fine art and works of scenery
- photographic works and other works created by a process analogous to photography
- works of architecture (projects, designs, sketches and models of buildings and other construction works, as well as completed buildings and other construction works)
- works of applied art
- illustrations, maps, charts, projects of gardens and parks, sketches and three-dimensional works relative to geography, topography and exact sciences
- other works.

The subject matter covered by copyright shall also include the following:

- derivative works created from the basis of other literary, scientific or artistic works (translations, dramatisations, adaptations, annotations, reviews, essays, musical arrangements, static and interactive internet homepages, and other derivative works)
- collections of works or compilations of data, databases (in machine-readable form or other form) which, by reason of the selection or arrangement of their contents, constitute an author's intellectual creations
- unofficial translations of legal acts, and of official documents of administrative, legal or regulative nature.

2.2 What is required for works to qualify for copyright protection?

As mentioned in 2.1 above, all intellectual creations may be protected by copyright, whatever their kind, form of expression, merit or purpose. However, to benefit from copyright, the work must be original.

As a general rule, Lithuania provides copyright protection if:

- the rights holder is a national of Lithuania
- the work was first published in Lithuania.

The author of the work must be a natural person who has created the work. A natural person whose name is indicated on a work in the usual manner will be regarded as the author of the work. This rule applies even if the work is disclosed under a pseudonym, where it leaves no doubt as to the identity of the author.

When a pseudonym of an author appears on the work that raises doubt as to the identity of the author, or the name of an author does not appear on a work, the publisher whose name appears on the work is deemed to represent the author, and in this capacity the publisher is entitled to protect and enforce the author's rights until the author of such work reveals their identity and establishes their claim to authorship of the work.

Copyright does not protect:

- ideas, procedures, processes, systems, methods of operation, concepts, principles, discoveries or mere data
- legal acts, official documents, texts of administrative, legal or regulative nature (decisions, rulings, regulations, norms, territorial planning and other official documents), or their official translations
- official State symbols and insignia (flags, coats of arms, anthems, banknote designs, and other State symbols and insignia), the protection of which is regulated by other legal acts
- officially registered drafts of legal acts
- regular information reports on events
- folklore works.

2.3 What rights does copyright grant to the rights holder?

The LCRR sets out the rights subsisting in copyright works which are the exclusive rights of the rights holder (before any licences are granted). They include the rights to any of the following acts:

- reproduction of a work in any form or by any means
- publication of a work
- translation of a work
- adaptation, arrangement, dramatisation or other transformation of a work
- distribution of the original or copies of a work to the public by: sale or targeted advertising of the original or copies of the work encouraging users to purchase them; rental; lending; or by any other transfer of ownership or possession, as well as by exporting and importing
- public display of the original or copies of a work
- public performance of a work in any form or by any means
- broadcasting, retransmission of a work, as well as communication to the public of a work in any other way, including the making available to the public of a work over computer networks (on the internet).

The author of a work, independently of his or her economic rights and even after the transfer of these rights to another person, has the moral rights described in 2.4 below.

2.4 Are moral rights protected (for example, rights to be identified as an author of a work or to object to derogatory treatment of a work)?

Yes. In the Republic of Lithuania, the following moral rights are provided for by the LCRR:

- the right to claim authorship of the work, by indicating the author's name in a prominent way on all copies of a published work, and in connection with any other public use of the work (the right of authorship)
- the right to claim or prevent mentioning of the author's name in connection with any use of the work, or the right to claim that the work be disclosed to the public under a pseudonym (the right to the author's name)
- the right to object to any distortion or other modification of a work or the title thereof, as well as to any derogatory action in relation thereto which would be prejudicial to the author's honour or reputation (the right to the inviolability of a work).

The moral rights of an author of computer programs and databases may not be used in a manner which unreasonably prejudices the rights of the holder of the author's economic rights in these computer programs and databases, including the right to carry out adaptation, alteration and distribution of these works at their discretion, with the exception of those cases where such actions would be prejudicial to the author's honour or reputation.

2.5 What is the duration of copyright in protected works?

An author's economic rights last for the life of the author and for 70 years after his or her death, irrespective of the date when the work is lawfully made available to the public.

Category of work
Joint work
Duration
The duration of the authors' economic rights in a joint work lasts for the life of co-authors and for 70 years after the death of the last surviving author.
Category of work
Anonymous and pseudonymous works

Duration
In case of anonymous and pseudonymous works, the term of protection of the author's economic rights lasts for 70 years after the work is lawfully made available to the public.
However, when the pseudonym adopted by the author leaves no doubt as to his/her identity, or if the author discloses his/her identity during the prescribed period, the term of protection of the author's economic rights lasts for the life of the author and for 70 years after his/her death.
Category of work
Collective works
Duration
In the case of collective works, the term of protection of the authors' economic rights lasts for 70 years after the work is lawfully made available to the public.
In cases where the natural persons who have created the work leave no doubt as to their identity, the duration of the authors' economic rights in a collective work lasts for the life of the co-authors and for 70 years after the death of the last surviving author.
Category of work
Audiovisual work
Duration
The term of protection of authors' economic rights in an audiovisual work extends over the lifetimes of the principal director, author of the screenplay, author of the dialogue, art director, director of photography and the composer of music specifically created for the audiovisual work, and for 70 years after the death of the last of them to survive.
Category of work
Music compositions with lyrics
Duration
Authors' economic rights to a music composition with lyrics last the lifetime of the authors of the whole musical composition with lyrics (the composer and author of the lyrics) and 70 years after the last surviving author's death. This is regardless of whether these persons are designated as co-authors, on the condition that their parts of the work (music or lyrics) were specially developed to be a musical composition with lyrics.

3. Ownership

2.6 For how long do moral rights subsist in copyright works?

The protection of the author's moral rights is of unlimited duration.

3.1 Who is the first owner of a copyright work?

As a general rule, the first owner of the copyright is the author. The main exception to this rule is where the work was made by a person in the course of their employment.

It is considered that the author of a work created in the execution of their duties or fulfilment of work functions is the natural person (or group of natural persons) who has created that work. However, an author's economic rights in a work (other than a computer program) created by an employee in the execution of their duties or fulfilment of work functions is transferred to the employer for a period of five years, unless otherwise provided for by an agreement. The owner of an author's economic rights in a computer program created by an employee in the execution of their duties or fulfilment of work functions is the employer, unless otherwise provided for by an agreement.

3.2 Can copyright in a work be jointly owned? If so, what are the rights of a co-owner?

When a work is created by two or more natural persons in joint creative endeavour, they are regarded as co-authors, irrespective of whether such a work constitutes a single unitary whole, or consists of parts, each of which has an autonomous meaning. A part of a joint work is considered as having an autonomous meaning if it can be used independently of the other parts of that work.

Mutual relations of the co-authors and their remuneration are determined by an agreement between them. In the absence of such an agreement, copyright in the joint work is exercised jointly by the co-authors, and the remuneration is divided among them in proportion to the creative contribution of each co-author. None of the co-authors have the right to prohibit, without a valid reason, the use of the joint work.

Each co-author is entitled to use, according to their own discretion, the part of the joint work created by them and having an autonomous meaning, unless otherwise stated in the agreement between the co-authors.

A person who has rendered material, technical or organisational assistance in the process of the creation of a work is not considered to be its co-author.

3.3 Can you register copyright? If so, what are the benefits of such registration and what other steps, if any, can you take to help you bring an infringement action?

Copyright is an unregistered right in the Republic of Lithuania; it arises automatically upon creation of the work. There is no registration system.

A copyright notice may be useful to evidence ownership of copyright and the date of authorship. It creates a presumption that the named person is the author, and puts third parties on notice of the rights, but copyright subsists without such notice and the failure to display such notice does not affect copyright in a work.

3.4 What steps should you take to validly transfer, assign or license copyright?

The author's economic rights may be transferred by an agreement, by testamentary succession or by other procedures prescribed by law. The established practice is that an author's economic rights are transferred by a written agreement.

A copyright agreement must stipulate the following terms and conditions:

- the title of a work (titles of works by foreign authors shall be indicated in the original language), except the licences issued by associations of collective administration
- description of a work (type, title of work, principal requirements for the work)
- the author's economic rights that are being transferred or granted (modes of the exploitation of a work) and the type of licence (an exclusive or non-exclusive licence)
- the territory in which the transfer of the rights or the licence granting the right to exploit a work is valid
- the term of validity of the transfer of the rights or the licence
- the amount of remuneration, and the procedure for and terms of payment
- dispute settlement procedure and liability of the parties
- other conditions of the agreement.

It must be presumed that under a copyright agreement only as many rights are transferred as are necessary for the accomplishment of the purposes of a concrete agreement. If a copyright agreement does not specify the time limits of transfer or granting of the economic rights, a party to the agreement may terminate the agreement by informing the other party in writing of the termination thereof one year

in advance. If a copyright agreement does not indicate the territory covered, it shall be considered that the economic rights are transferred or granted within the territory of the Republic of Lithuania.

If all an author's economic rights are transferred under a copyright agreement, it is considered that such rights are transferred only for the modes of use of a work stipulated in the agreement. If the modes of use of a work are not stipulated in a copyright agreement, it is considered that the copyright agreement is concluded only for those modes of use of the work necessary for the parties to achieve the purpose for which the agreement has been concluded.

3.5 Can moral rights be transferred, assigned or licensed?

No. Moral rights cannot be transferred, assigned or licensed.

4. Infringement

Owners of copyright can take legal action if any of their exclusive rights (as set out in 2.3 above) have been infringed.

4.1 What acts constitute primary infringement of copyright?

Lithuanian law does not differentiate between primary and secondary infringements as, for example, UK law does.

4.2 What acts constitute secondary infringement of copyright?

As stated above, Lithuanian law does not differentiate between primary and secondary infringement.

4.3 What acts are permitted with respect to copyright works (ie what exceptions apply)?

Any limitations on economic rights are permitted only in those cases provided for in the LCRR. They must not conflict with the normal exploitation of a work and must not prejudice the legitimate interests of the author or other owner of copyright.

There are a number of acts that can be carried out in relation to copyright works despite the fact that they might be protected by copyright. These permitted acts are wide in variety but often relate to very specific scenarios. They include (amongst others):

Act
Reproduction of works for personal use
Description
It is permitted for a natural person, without the authorisation of the author or any other owner of copyright, to reproduce, exclusively for his or her individual use, not for direct or indirect commercial advantage, in a single copy a work published or communicated to the public in any other mode, where the reproduction is a single action.
Category of work
Quotation
Description
It is permissible, without the authorisation of the author or any other owner of copyright, to reproduce a relatively short passage of a published work or a work made available to the public, both in the original and translated language, in the form of a quotation in another work, provided that such reproduction is compatible with fair practice and its extent does not exceed that justified by the purpose.

When quoting, mention must be made of the source and of the name of the author, if it appears thereon.

Act

Use of a work for the purposes of public security

Description

It is permissible, without the authorisation of an author or any other owner of copyright and without remuneration, to reproduce and communicate to the public a work for the purposes of public security or to ensure the proper performance or reporting of administrative, parliamentary or judicial proceedings.

Act

Display of works

Description

The public display of an original work of fine art or a copy thereof shall be permitted without the authorisation of the author or his/her successor in title, if a work has been sold or its ownership has been otherwise transferred to another natural or legal person and where the author or his/her successor in title knows or has reasonable grounds to know that such a public display (exhibition) of works constitutes part of the regular activities of the natural or legal person who has acquired the work.

4.4 Is it permissible to provide a hyperlink to, or frame, a work protected by copyright? If so, in what circumstances?

It is prohibited to use any content without the owner's permission. The owner has exclusive rights to authorise or to prohibit any of acts described in 2.3 above.

4.5 Is a licensee of copyright able to bring an infringement action?

Under the LCRR, an infringement of copyright is actionable by the owners of copyright, related rights and *sui generis* rights, licensees of exclusive rights, as well as associations which handle the collective administration of rights.

5. Remedies

5.1 What remedies are available against a copyright infringer?

The LCRR provides for two types of civil remedies: protective and compensatory.

Protective remedies:

- recognition of rights
- injunction with the aim of prohibiting the continuation of unlawful acts
- preventive action
- redress of the infringed moral rights
- injunction against the intermediary
- interim measures (including freezing orders and cease and desist orders), measures for preserving evidence, recovery of evidence
- non-party disclosure
- corrective measures (including recall, removal from the channels of commerce and destruction of infringing articles).

Compensatory remedies:

- action for compensation for material damage
- action for payment of compensation
- action regarding the recovery of remuneration for the unauthorised use of the work
- action for compensation for non-pecuniary damage.

5.2 Are there any specific remedies for online copyright infringement?

The rights holders can seek an injunction from the court against an intermediary, ordering them to cease provision of services to third parties who infringe a copyright by using these services. An injunction to provide the said services includes suspension of a transmission of information related to the infringement of copyright or elimination of such information, if an intermediary has the technical means to carry this out, or removal of access to information that is infringing copyright.

5.3 Under what circumstances is copyright infringement a criminal act and what sanctions may apply?

There are four criminal acts established by the Criminal Code of the Republic of Lithuania in relation to copyright.

A legal entity might be also held liable for the commission of the below listed criminal acts.

The Criminal Code of the Republic of Lithuania provides the following types of criminal acts:

Criminal act
Misappropriation of authorship
Relevant intention, knowledge or belief
Direct intention
Penalty
<ul style="list-style-type: none"> • Community service • Fine • Arrest • Restriction of liberty, or • Imprisonment for a term of up to three years.
Criminal act
Reproduction of copyright work for commercial purposes or distribution, transportation or storage for commercial purposes of illegal copies thereof, where the total value of the copies exceeds the amount of €3,800.
Relevant intention, knowledge or belief
Direct intention
Penalty
<ul style="list-style-type: none"> • Community service • Fine • Restriction of liberty • Arrest, or • Imprisonment for a term of up to two years, or three years in the case that the total value of the copies exceeds the amount of €9,500.
Criminal act
Destruction or alteration of information about management of copyright
Relevant intention, knowledge or belief
Direct intention
Penalty
<ul style="list-style-type: none"> • Fine • Arrest, or • Imprisonment for a term of up to one year.
Criminal act
Unlawful removal of technical protection means of copyright

Relevant intention, knowledge or belief
Direct intention
Penalty
<ul style="list-style-type: none"> • Fine • Arrest, or • Imprisonment for a term of up to two years.

5.4 Is there a time limit for bringing a copyright infringement claim?

The time limit is three years to bring a claim for damages related to the copyright infringement and 10 years for other claims. Time begins to run from the date the rights holder found out, or should have found out, about the infringement.

5.5 Can legal (or any other) costs be recovered in an action for copyright infringement? If so, what percentage of costs will typically be recovered by the successful party?

In Lithuania, the general rule is that the unsuccessful party pays the costs of the successful party. The court in each individual case follows the recommendations as regards the amounts of ordered legal costs established by the Ministry of Justice of the Republic of Lithuania. Therefore, it is impossible to assess the typical percentage of recovered legal costs.

6. Enforcement

6.1 What courts can you bring a copyright infringement action in, and, what monetary thresholds, if any, apply?

County courts have exclusive jurisdiction over claims worth €40,000 or more (except actions for compensation for non-pecuniary damages) and claims related to moral rights of authors. All other actions must be brought to district courts.

6.2 Are there any other ways in which you can enforce copyright?

Administrative proceedings

A rights holder is entitled to initiate administrative proceedings in the case of infringement of copyright. The offender might be punished by a fine and forfeiture of articles.

Customs detention

A copyright holder may request suspension of the release or detention and destruction by Customs of infringing copies being imported into Lithuania.

Criminal proceedings

Criminal proceedings, although rare, can be brought on the grounds described in 5.3 above, and pursued through the courts.

6.3 What agency bodies are responsible for promoting and/or enforcing copyright? What do they do?

The Ministry of Culture of the Republic of Lithuania is the official government body responsible for the execution of the state policy on copyright and coordination thereof.

Rights management agencies, as non-governmental, non-profit organisations, play an important role in copyright protection and promotion.

There are no agency bodies that actively enforce copyright. The police will target criminal activity (see 5.3) but it is up to the rights holders or the rights management agencies to spot infringing work and take action.

6.4 What are the main collective rights management agencies that operate in your jurisdiction and who do they represent?

To use copyright material without infringing the rights of another, you usually need to gain the permission of the rights holder.

7. Copyright reform

However, as a result of the practical difficulties and administrative burden for copyright owners in granting licences individually to all those seeking them, copyright holders participate in collection schemes by signing up as members of the collecting societies. Once members, they transfer the right to administer their copyright to the collecting society.

The key collecting societies in each sector are as follows:

Agency
Association LATGA
Who it represents
Musicians, visual artists, audiovisual artists, artists in the dramatic arts, writers
Agency
Association of the Music Right Holders NATA
Who it represents
Musicians
Agency
Lithuanian Related Rights Association (AGATA)
Who it represents
Related rights holders
Agency
Related Rights Association GRETA
Who it represents
Related rights holders
Agency
Audiovisual Works Copyrights Association AVAKA
Who it represents
Audiovisual artists

6.5 Are copyright levies payable? By whom, and in what circumstances?

Copyright levies are not payable in the Republic of Lithuania where an exception applies, such as the exception for private copying. The levies are paid in respect of devices and blank media used for personal reproduction of copyrighted works. The levies are paid by the vendors selling the equipment or blank media for the first time in the territory of the Republic of Lithuania.

7.1 What do you consider to be the top two recent copyright developments?

Reform of collective administration

LCRR has been harmonised with Directive 2014/26/EU of the European Parliament and of the Council on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market.

The key aspects of the reform are as follows:

- enabling collective management organisations to choose their legal form
- clear requirements in respect of the administration of property of collective management organisations, transparency and reporting
- enabling collective administration organisations to grant multi-territorial licences for online usage of music.

Stichting Brein v Ziggo

On 14 June 2017, in Case C 610/15 *Stichting Brein v Ziggo*, the CJEU explained that “the concept of ‘communication to the public’, within the meaning of Article 3 (1) of Directive 2001/29, must be interpreted as covering, in circumstances such as those at issue in the main proceedings, the making available and management, on the internet, of a sharing platform which, by means of indexation of metadata referring to protected works and the provision of a search engine, allows users of that platform to locate those works and to share them in the context of a peer-to-peer network.”

This was the first time at the European level that the liability of the operators of the online sharing platform for the copyright infringement has been considered. Until the adoption of the said judgment, CJEU mainly concentrated on the question of injunctions against intermediaries whose services are used by third parties for copyright violations.

7.2 What do you consider will be the top two copyright developments in the next year?

Portability regulation

Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market has been adopted. The said regulation will become applicable in all EU Member States from 1 April 2018.

The portability regulation enables consumers to access their portable online content services when they travel in the EU.

Guidelines and principles for online platforms

On 28 September 2017, the EU Commission presented guidelines and principles for online platforms to increase the proactive prevention, detection and removal of illegal content inciting hatred, violence and terrorism online (*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Tackling Illegal Content Online Towards an enhanced responsibility of online platforms*).

The guidelines will contribute to making the fight against illegal content more effective.

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