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What are my rights when I publish ?

Directorate for Scientific and Technical Information

Publishing raises the question of rights, which is governed by the French Code of Intellectual Property. To what extent and how does scientific publishing relate to copyright?

Copyright covers any original work like a **scientific publication**, **conference** and **congress** contributions and material, **course materials**, and also **software programmes**, **images** and **films** (Art. L112-2) [1].

What is behind author rights?

Copyright is twofold and comprises both economic rights and moral rights (L111-1) [1].

The moral rights are vested in the author and are perpetual, inalienable and imprescriptible (L121-1 and L121-2) [1]. They provide for the authorship and integrity of the work.

The economic rights govern the conditions of exploitation of the work and apply to the interactions between authors and those in charge of disseminating the work (publishers). Most of the time, this interaction is based on contracts between authors and publishers. This is why it is essential to read carefully a contract that will bind an author to the publisher before signing it.

How do authors exercise their economic rights?

Authors hold all rights to their manuscript unless they sign a contract to assign their economic rights to a publisher (L122-7) [1].

In case of joint authors, are they all equal?

The rights are granted to each joint author (L113-3) [1]. A contract for the assignment of their economic rights to a publisher should be signed by all joint authors, who shall be bound by their signature.



Who hold the rights in scientific publications?

Once a publishing contract (L132-1) [1] is signed between the publisher and the authors, reference should be made to its contents. Generally, when they sign a contract, authors assign all their rights to the publisher who is entitled to reuse the content of their publication, including illustrations. However, authors may try to negotiate to reserve some of their rights (translation, integration into a multimedia work, etc.).

The authors may also choose to make their publication available under an open content licence like Creative Commons if it complies with the provisions of the contract signed with the publisher.

In any case, authors should seek guidance from their research unit and CNRS to be informed about the adopted publishing policy, namely green or gold Open Access [2].

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Are all parts of an article subject to copyright?

An article is copyrighted in its whole, including figures and tables.



May I reuse published figures and pictures?

Yes, under specific provisions set out in your contract with your publisher if you were the author. It is **essential to always cite the publication**. Otherwise, you have to ask permission to do so to the publisher who holds the rights.



Is the publisher authorised to reuse my figures in another context?

As far as you have assigned your economic rights to the publisher, he is entitled to reuse a part of your article in another context if such reuse is provided for in the contract. The provisions of the contract are determining!



Is the poster I presented at a conference subject to the same rights?

It is also a “work of the mind” created to present data. If your poster refers to the content of an article, it should be cited.



May I use excerpts of a presentation from a conference I attended to?

Only if you obtained consent from each of the authors.



Open archives

Does posting my article in an open archive amount to publishing?

Definitely, deposits in open archives are acts of publication.



May I post the full text of my articles on my web page or in an open archive?

You must check if the contract with the publisher allows it by making a search about their publishing policy in Romeo [4], or in Heloise for French publishers [4]. Note that the consent of joint authors is required to be allowed to deposit an article in an Open Archive.



How can I notify the rights in my works I am willing to share?

Subject to the rights you have already assigned, you can manage the rights to your works through one of the six options provided by Creative Commons (CC) licences [5]. While conventional copyright provisions encourage to keep exclusive rights (all rights reserved), these licenses prompt to keep only a part of them (some rights reserved). This kind of licensing enables you to disseminate your works within the scientific community under certain conditions and to your preferences.

Software programmes

When I write a software programme or a part of it, what are my rights as an author?

You hold the moral rights (L112-2) [1], but the economic rights are your employer’s property (exempting provisions may be set out in special contracts).



Yes



Yes, but it depends !



No

Pictures and photographs

Does copyright apply to charts, drawings, graphics or maps that were produced in my research unit and published on any kind of medium?

The provisions of article L112-2 [1] are very specific about this, and all the more so if they come from a publication.



Can I protect my pictures and photographs?

They are protected at the very moment they are made. Like text and as soon as they are disclosed (in a publication, in an image library, etc.) they can be linked to a publishing contract or a CC license [5].



May I use so-called copyright free pictures?

Be cautious, copyright free does not mean with no rights at all. As soon as there is a licence of use, you must comply with its terms.



Can I use an image available on the web in a publication?

If you found it on the web, it has already been published and it is therefore copyright-protected. You have to ask its author for permission or possibly comply with its CC licence [5].



When I deposit pictures in an image library or in an open archive, am I allowed to use them as I wish?

You are the author, so you can use them provided you comply with provisions of the contract you may have signed with the publisher. If you use photographs coming from such sites, you must comply with Conditions of use (e.g. CC license [5] for example).



What are the legal rules I must comply with when I organise an exhibition?

You must comply with copyright by securing authorisations from the authors of the exhibited works. You can obtain guidance locally in your Region by consulting the relevant entities like the communication, partnership or valorisation departments.

Am I entitled to use photographs taken by visitors who came to report about my work (journalists, in-house photographers, associations, students)?

These photographs or films were made by third parties, that is, other persons than you. So they are the authors and you need their permission to reuse them. In addition, you are not entitled to prohibit their distribution (except if there is a contract to this end).



Lectures and tutorial courses

If I deposit teaching materials on my web page, can I protect them?

If you are the author of original lectures, tutorials, exercises and corrections, using a CC license [5] will enable you to choose the protection level you want. This licence will notify anyone consulting your materials under which conditions they can reuse them. Their reuse for educational and research purposes is allowed as part of the educational exception (L122-5) [1].



What is the educational exception?

Pursuant to article L122-5 of the Code of Intellectual Property [1], you may use works exclusively for illustration purposes as part of a course or research with students and researchers, except for a commercial use.



Doctoral theses

Who is entitled to claim rights on a thesis dissertation?

Only the doctoral student who wrote it. Courts have ruled that the writer of a dissertation, a doctoral thesis, an article, albeit under supervision, shall be considered as the single author [6].

Can articles or article manuscripts be compiled in the manuscript of a thesis?



The doctoral student must obtain the permission of the joint authors and publishers to avoid breaching an exploitation contract on such articles.

May I reuse text or figures from a thesis I supervised in article?



You must demonstrate your joint authorship, seek the permission of the doctoral student and cite the thesis. If so, the article will become a composite work (L113-4) [1].

Can a thesis be published by a publisher for a commercial purpose?



Yes, but closely study the assignment and publishing contracts providing for the execution of economic rights.

Your obligations

When manuscripts are submitted for publication, make sure there is no negligence from joint authors, because they are jointly liable for works.

Make sure for yourself and those you supervise that citations are properly made in reports, theses, presentations, courses and conferences. This is a moral obligation for a supervisor.

As a conclusion, to use works of mind, you have to pay close attention to the rights associated to them, those set out by their authors and with a publisher in a contract.

For authors, moral rights are recognition of authorship of a work. Economic rights are part of a contract when they are assigned in whole or in part, so:

- As an author, carefully read the terms and conditions of such a contract;
- As a user of publications, you must comply with the rights of the works' authors or publishers.

References :

- [1] The valid provisions of articles of the French Code of Intellectual Property (CPI) are those published on the Légifrance website on June 26, 2012 - <http://www.legifrance.gouv.fr>
- [2] Opinion of the CNRS Ethical Committee (Comets) - <http://www.cnrs.fr/comets/IMG/pdf/007-avis-0a-120629.pdf>
- [3] CNRS Directorate for Legal Affairs (DAJ) - <http://www.dgdr.cnrs.fr/daj>
- [4] Romeo and Héloïse - <http://www.sherpa.ac.uk/romeo/> et <http://heloise.ccsd.cnrs.fr/>
- [5] Creative Commons (CC) - <http://creativecommons.fr/>
- [6] Appeal Court Paris 4th Ch., April 20, Mortueux de Fauds vs. Distrivet
- [7] Follow-up and Steering Committee (COS) of the Research Professional and Employment Observatory (OMES) <http://www.dgdr.cnrs.fr/drh/omes>



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Yes



Yes, but it depends !



No