

Legal recourse

Recourse to the courts shall be permitted in respect of all legal disputes by means of which a claim is asserted on account of a legal relationship regulated under this Act (copyright litigation matters). As regards copyright litigation matters resulting from employment or service relationships which have as their object only claims for payment of an agreed remuneration, recourse to the labour courts and the administrative courts shall remain unaffected.

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Article 104a Place of jurisdiction

(1) As regards actions brought on account of copyright litigation matters against a natural person who does not use works protected under this Act or other subject-matter protected under this Act for his commercial or self-employed business activity, that court shall have exclusive jurisdiction in whose district that person has his domicile at the time when the action is brought, for want of such domicile his habitual place of residence. Where the defendant neither has his domicile or habitual place of residence in Germany, that court shall have jurisdiction in whose district the act was carried out.

(2) Article 105 shall remain unaffected.

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Article 105 Courts for copyright litigation

(1) The Land (federal state) governments shall be authorised to assign, by way of legal ordinance, copyright litigation matters for which the regional court is competent as court of first instance or as appeal court to one of the several regional courts competent within a district where this serves the administration of justice.

(2) The Land governments shall further be authorised to assign, by way of legal ordinance, copyright litigation matters which are within the jurisdiction of the local courts to one of several local courts within a district where this serves the administration of justice.

(3) The Land governments may transfer the authorisations according to paragraphs (1) and (2) to the Land judicial administrations.

(4) and (5) (repealed)

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Subsection 2 Criminal and regulatory fine provisions

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Article 106 Unlawful exploitation of copyrighted works

(1) Anyone who without the consent of the rightholder reproduces, distributes or communicates to the public a work or an adaptation or transformation of a work in manners other than those permitted by law shall be liable to imprisonment of not more than 3 years or a fine.

(2) Any attempt shall be punishable.

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Article 107 Unlawful affixing of designation of author

(1) Any person who

1. without the consent of the author affixes to the original of an artistic work the designation of author (Article 10 (1)) or distributes an original bearing such designation,

2. affixes to a copy, an adaptation or transformation of an artistic work the designation of author (Article 10 (1)) in a manner which gives the copy, adaptation or transformation the appearance of an original, or distributes a copy, such an adaptation or transformation bearing such designation,

shall be liable to imprisonment of not more than three years or a fine, unless other provisions impose a more serious sentence.

(2) Any attempt shall be punishable.

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Article 108 **Infringement of related rights**

(1) Any person who without the consent of the rightholder

1. reproduces, distributes or communicates to the public a scientific edition (Article 70) or an adaptation or transformation of such an edition,
2. exploits a posthumous work or an adaptation or transformation of such a work contrary to Article 71,
3. reproduces, distributes or communicates to the public a photograph (Article 72) or an adaptation or transformation of a photograph,
4. exploits a performance by a performer contrary to Article 77 (1) or (2), first sentence, Article 78 (1),
5. exploits an audio recording contrary to Article 85,
6. exploits a broadcast contrary to Article 87,
7. exploits a video recording or a video and audio recording contrary to Articles 94 or 95 read in conjunction with Article 94,
8. exploits a database contrary to Article 87b (1),

in manners other than those permitted by law shall be liable to imprisonment of not more than three years or a fine.

(2) Any attempt shall be punishable.

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Article 108a **Unlawful exploitation on a commercial scale**

(1) Where the offender in the cases referred to in Articles 106 to 108 acts on a commercial basis, the penalty shall be imprisonment of not more than five years or a fine.

(2) Any attempt shall be punishable.

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Article 108b **Infringement of technological measures and rights-management information**

(1) Any person who,

1. with the intention of enabling for himself or a third party access to a work which is protected under this Act or to other subject-matter protected under this Act or its exploitation, circumvents an effective technological measure without the consent of the rightholder, or
2. knowingly without authorisation
 - a) removes or alters rights-management information provided by rightholders, if any of the information concerned is affixed to a copy of a work or of other protected subject-matter, or is released in the context of the