

According to the legislation applicable, an author is recognised to have a moral right, the purpose of which is to protect the person of the artist, through the work.

This special link between the moral right and the personality of the author explains the specific features of this right :

- The moral right is non-transferable and inalienable. The author cannot relinquish it or assign it to a third party, even if he/she wants to. Any clause in a contract that states the opposite is legally invalid.

- The moral right is perpetual. While property rights expire 70 years after the death of the author, the moral right continues after this period. It is then the beneficiaries of the author that exercise this right.

According to the French intellectual property code, an author enjoys several prerogatives under the moral right :

1° RIGHT OF PATERNITY (ART. L. 121-1)

The author has the right to demand that his/her name (or pseudonym if applicable) be identified for any use of his/her works. He/she cannot be forced to relinquish this or agree to the work being presented under another artist`s name. However, the author retains the option, if he/she wishes, to publish his/her work anonymously.

2 ° RIGHT OF INTEGRITY (ART. L. 121-1)

The author has the right to object to the integrity of his/her work being affected (alteration, coloration, destruction, dismantling, combination with other elements...). However, for works in a public space, the courts weigh up this right against safety constraints, public order rules and the rights of the owner of the premises.

3 ° RIGHT OF PRESENTATION (ART. L. 121-2)

The author alone can decide when and how his/her work is presented. He/she cannot be forced him/her to publish a work with which he/she is not satisfied, even when it has been commissioned.

4 ° RIGHT TO CHANGE ONE'S MIND OR WITHDRAW (ART. L. 121-4)

The author may regret making one of his/her works public. According to the legislation applicable, he/she has the right to change his/her mind, even if he/she has assigned his/her operating rights. But in practice, this right is very rarely exercised in the case of the assignment of rights, because the law requires the author to compensate the assignee in advance for the loss caused.

Any violation of the moral right is an act of infringement likely to incur the civil or criminal liability of the person involved: it can result in the payment of damages or a fine.

N.B.: since the moral right is intrinsically linked to the person of the author and is non-transferable, collecting societies – and in particular ADAGP – cannot manage this right. Only the author or his/her eligible parties can sanction the infringement of moral rights.
