

Portugal

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Introduction

The origin of Portuguese copyright law¹ is generally considered to date to 1851, although authors of literary works were recognized as having certain rights already from the 1820s onwards. Thus, it is possible to state that Portugal awoke late to the issue of copyright in relation to some other European nations (the Statute of Queen Anne² having been enacted in 1710).

Since the mid-19th century, Portugal has developed its domestic copyright law in line with the continental European tradition, drawing particular influence from the laws of France, Germany, and Italy. Current Portuguese substantive copyright law is, therefore, highly harmonized with that of other continental European countries.

Copyright is considered a fundamental right in the Portuguese legal system, and this naturally has an impact on the way copyright infringement is dealt with in the national legal system. Indeed, the right to the protection of one's literary and artistic works has been present in the various Portuguese constitutions, both during the constitutional monarchy period (19th century) and during the First and Second Republics (early 20th century).

In 1974, Portugal underwent a revolution that overthrew the *Estado Novo* dictatorship and gave rise to the current Third Republic and the creation of a modern constitutional democracy. Interestingly, the constituent assembly that drafted the (current) 1976 Portuguese Constitution did not forget copyright in the "highest law of the land". Article 42 of the Constitution states that everyone is free to invent, produce, and disclose scientific, literary, or artistic works, and this includes the legal protection of copyright.

¹ Portuguese copyright and procedural law is complex and has many exceptions. The information provided in this chapter has been summarized for ease of comprehension and does not constitute legal advice. A Portuguese attorney should be retained to analyze a case of copyright infringement before initiating litigation.

² Copyright Act of 1710.