

Chapitre 1- L'objet du droit d'auteur

Il s'agit ici de rechercher l'élément fondateur du droit d'auteur, en l'occurrence la présence d'une œuvre. Alors quelles sont les œuvres qui bénéficient d'une protection au sens de la loi marocaine ? quels caractères ces œuvres doivent-elles présenter ? et comment se fait l'application des principes aux différents types d'œuvres ? Pour répondre à ces questions, sera d'abord traitée la notion de l'œuvre (Section 1) avant d'évoquer les conditions de protection (Section 2).

Section 1- La notion d'œuvre

Pour connaître les œuvres qui s'exposent au droit d'auteur, nous allons examiner d'abord l'élément fondateur de la notion d'œuvre (Paragraphe 1) telle que relatée par la loi 2-00 précitée. Nous allons par la suite donner un aperçu sur les œuvres non protégées (Paragraphe 2).

Paragraphe 1- Elément fondateur : présence d'une œuvre

En plus de l'œuvre proprement dite (A), sont protégées en vertu de la loi marocaine le titre de l'œuvre (B), Les œuvres dérivées et les recueils (C), Les manuscrits anciens (D) et les expressions du folklore (E). Le deuxième chapitre de cette loi fait état des objets de la protection.

A- L'œuvre

L'article 1^{er} de la loi 2-00, telle que modifiée et complétée, définit l'œuvre comme : « toute création littéraire ou artistique au sens des dispositions de l'article 3 ». En vertu de ce dernier :

La présente loi s'applique aux œuvres littéraires et artistiques et **journalistiques**(ci-après dénommées « œuvres ») qui sont **des créations intellectuelles originales** dans le **domaine littéraire et artistique**, telles que :

a. les œuvres exprimées par écrit ; b. les programmes d'ordinateur ; c. les conférences, allocutions, sermons et autres œuvres faites de mots ou exprimées oralement ; d. les œuvres musicales qu'elles comprennent ou non des textes d'accompagnement ; e. les œuvres dramatiques et dramatico-musicales ; f. les œuvres chorégraphiques et pantomimes ; g. les œuvres audio-visuelles y compris les œuvres cinématographiques et le vidéogramme ; h. les œuvres des beaux-arts, y compris les dessins, les peintures et autres arts graphiques, les gravures, lithographies (images), les impressions sur cuir et toutes les autres œuvres des beaux-arts ; i. les œuvres d'architecture ; j. les œuvres photographiques ; k. les œuvres des arts appliqués ; l. les illustrations, les cartes géographiques, les plans, les croquis et les œuvres tridimensionnelles relatives à la géographie, la topographie, l'architecture ou la science ; m. les expressions du folklore et les œuvres inspirées du folklore ; n. les dessins des créations de l'industrie de l'habillement.

La protection est indépendante du mode ou de la forme d'expression, de la qualité et du but de l'œuvre.

Article 3 de la loi 02-00 tel que modifié et complété par la loi 66-19

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