

# COUNCIL OF EUROPE COMMITTEE OF MINISTERS

---

RECOMMENDATION No. R (90) 11

**OF THE COMMITTEE OF MINISTERS TO MEMBER STATES  
ON PRINCIPLES RELATING TO COPYRIGHT LAW QUESTIONS  
IN THE FIELD OF REPROGRAPHY**

*(Adopted by the Committee of Ministers on 25 April 1990  
at the 438th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress;

Having regard to the need to safeguard properly the interests of copyright owners faced with rapid technological developments, in particular the widespread use of photocopying and analogous reproduction procedures (reprography);

Bearing in mind at the same time the need not to restrict unduly the public's use of these new copying techniques;

Taking note of the fact that copyright obligations between the Council of Europe member states are governed by the Berne Convention for the Protection of Literary and Artistic Works (the Berne Convention), Article 9 of which grants authors the exclusive right of authorising the reproduction of their works to which exceptions are allowed only in certain special cases;

Recalling its Recommendation No. R (86) 9 on copyright and cultural policy of 22 May 1986, in particular point V thereof,

Recommends that governments of member states examine questions concerning copyright which arise in relation to reprography and, in so doing, be guided by the following principles.

## **Principles**

1. States should, in their legislation on copyright, limit exceptions to the exclusive rights of copyright owners, according to the letter and spirit of the relevant provisions of the Berne Convention. This should especially be the case where exceptions are made to the exclusive rights of authors but are not accompanied by remuneration.
2. States should, having regard to Article 9 of the Berne Convention, carefully examine whether reprography in their respective countries is carried out in a way and to an extent that conflict with the normal exploitation of works or otherwise unreasonably prejudice the legitimate interests of right owners. In case of such conflict or prejudice, states should seek to take appropriate measures.

3. In cases where authors have the exclusive right to authorise the reproduction of their works, states should consider :

- if and how they can assist right holders to enforce their rights ;
- if and how they can assist users to obtain permission to copy.

In so doing, they should consider :

- facilitating voluntary licensing schemes. The effects of such schemes could be reinforced, if necessary, by appropriate statutory provisions ;
- provision of machinery for voluntary settlement of disputes.

4. *a.* When considering matters referred to in Principles 2 and 3, states should give particular attention to areas where solutions are especially called for, *inter alia* :

- educational copying ;
- copying in libraries ;
- copying in commercial enterprises, state administration or other public institutions.

*b.* When solutions of a non-voluntary nature are adopted for institutional copying, states should consider the need to remunerate right holders.

5. Where states legislate with regard to distribution of remuneration, they should, in principle and where practicable, aim to secure distribution on an individual basis.