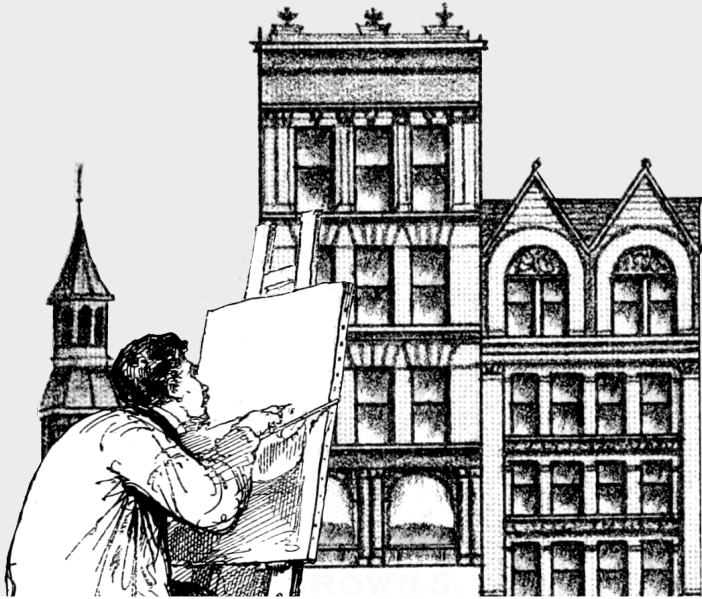


BEST CASE SCENARIOS FOR COPYRIGHT



FREEDOM OF PANORAMA

IN PORTUGAL

Freedom of panorama is a fundamental element of European cultural heritage and visual history.

Rooted in freedom of expression, it allows painters, photographers, filmmakers, journalists and tourists alike to document public spaces, create masterpieces of art and memories of beautiful places, and freely share it with others.

WHAT IS FREEDOM OF PANORAMA?

- 1 Derived from the German word *Panoramafreiheit*, freedom of panorama generally refers to the right to visually document works of architecture, sculptures, street art, or other copyrighted works, as long as they are permanently located in public spaces. In Portugal, the exception covers all sorts of documentation—not only photographs and video footage.
- 2 The exception is justified by freedom of expression and public interest.

HOW DOES IT WORK?

- 1 All uses are exempted: users can share pictures, videos, drawings, or other reproductions of works located in public places. They are also permitted to create and share adaptations—all without infringing rights in the original work.
- 2 All works permanently located outdoors or in public interior spaces can be documented.
- 3 Users may be able to benefit commercially from reproductions and adaptations created under the exception, as long as such uses pass the three-step test (see “limits” on the other page).
- 4 Users must give credit to the authors of the underlying works.

WHO CAN USE IT?

Anyone can benefit from the freedom of panorama exception: citizens, individual artists, organizations, and companies.

IS IT FREE?

Yes, it is free. No remuneration is due to authors or rights holders of the featured work.

WHAT ARE THE LIMITS TO THE FREEDOM OF PANORAMA EXCEPTION?

The three-step test: by law, uses are only exempted if they do not conflict with the normal exploitation of the work, and do not unreasonably prejudice the legitimate interests of the rights holder. A correct application of the three-step test requires a fair balance between freedom of expression and the interests of the right holders.

ECONOMIC AND SOCIETAL IMPACT

It is hard to imagine European culture and imagery without documentation of our public art and surroundings. Artists use city skylines, public architecture, and familiar landmarks as the raw materials to express collective and personal identities through painting, photography, and films. Historically, panorama artworks provide invaluable evidence to natural, urban, economic, and societal transformations over the centuries.

EXAMPLES OF USE

1 The Lisbon Municipality runs Galeria de Arte Urbana, a project presenting graffiti, street art and other urban artworks located in public spaces all over Lisbon to the public. GAU includes free publications on street-art made available online at Issuu, a Facebook page, where the Lisbon Municipality and fans alike post new entries regularly, and other social media activities that also promote urban art events.

<https://www.facebook.com/galeriadearteurbana/>

2 Several Portuguese filmmakers and photographers rely on the freedom of panorama to create their own works. For instance, Mónica de Miranda is a Portuguese artist whose work is based on themes of urban archeology and personal geographies. Her art project “Underconstruction” (2009) includes panoramic photographs, photographs of buildings, and a panoramic video journey across a road in Lisbon, Portugal.

<http://www.monicademiranda.org/military-road/>

LAW

Article 75.^o, paragraph 2, point q) of the Portuguese Code of Authors’ Rights and Neighboring Rights (Código do Direito de Autor e dos Direitos Conexos), created by the Decree-Law no. 63/85 of 14 March 1985 (as last amended by the Law no. 49/2015 of 5 June 2015).

The wording is similar to the 2001 InfoSoc Directive: “the use of

works, such as, for instance, works of architecture or sculpture, made to be located permanently in public places” without the author’s consent is permitted.

First introduced in 2004, with the implementation of the InfoSoc Directive.

FURTHER REFERENCE

For details on how the freedom of panorama functions in Portugal, please see the Best Case Scenario for Copyright – Freedom of Panorama in Portugal analysis prepared by Teresa Nobre, LL.M. IP (MIPLC) on behalf of the Communia Association.

Read more at <http://www.communia-association.org/bcs-copyright>.

BEST CASE SCENARIOS FOR COPYRIGHT

Best Case Scenarios for Copyright is an initiative by COMMUNIA, presenting best examples of copyright exceptions and limitations found in national laws of member states of the European Union. We believe that, by harmonizing copyright exceptions and limitations across Europe, using as a model these best examples that are permitted within the EU law, the EU would reinforce users’ rights in access to culture and education.



Dedicated to the PUBLIC DOMAIN
<https://creativecommons.org/publicdomain/zero/1.0/>