



European
Commission

AFRICA
IP SME HELPDESK



IP Factsheet MADAGASCAR





SECTION 1: COUNTRY OVERVIEW

1.1 GENERAL INFORMATION

Capital:	Antananarivo
Population:	32,067,854 (2024)
Currency of government (official) fees:	Malagasy Ariary (MGA)
Language for filing IP applications:	Malagasy and French
GDP per capita (USD):	516.59 (World Bank, 2022)
Human Development Index:	0.487 (UNDP, 2022)
Main exports:	Refined petroleum, rice, palm oil, packaged medicaments and light rubberised knitted fabric.
Main imports:	Vanilla, gold, raw nickel, knit sweaters and titanium ore

1.2 INTERNATIONAL IP AGREEMENTS AND CONVENTIONS

Madagascar is a contracting state to the following international legal instruments:

- Berne Convention for the Protection of Literary and Artistic Works of 9 September 1886;
- Paris Convention for the Protection of Industrial Property of 20 March 1883;
- The Convention Establishing the World Intellectual Property Organization of 14 July 1967;
- Agreement establishing the World Trade Organization (WTO) of 15 April 1994;
- WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) of 15 April 1994;





- WIPO Copyright Treaty (WCT) of 20 December 1996;
- WIPO Performances and Phonograms Treaty (WPPT) of 20 December 1996;
- Treaty establishing the Common Market for Eastern and Southern Africa (COMESA) of 5 November 1993;
- The Protocol relating to the Madrid Agreement concerning the International Registration of Marks of 27 June 1989;
- The Patent Cooperation Treaty of 19 June 1970;
- Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity of 29 October 2010;
- UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage of 16 November 1972;
- UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage of 17 October 2003;
- UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions of 20 October 2005;
- Convention on Biological Diversity of 5 June 1992;
- The Singapore Treaty on the law of Trademarks of 27 March 2006.

1.3 REGIONAL AGREEMENTS

Madagascar is a member of the following regional agreements:

- **AfCFTA** (African Continental Free Trade Area). The AfCFTA Agreement includes a protocol on IP rights aiming to advance the effective protection and promotion of IP rights in Africa. Once this enters into force, it may have an impact on the future shape of Malagasy legislation.
- **COMESA** (Common Market for Eastern and Southern Africa). COMESA has no regional IP agreements, protocols or registration systems in place. COMESA is composed of 21 states. They are Burundi, Comoros, Congo, Djibouti, Egypt, Eritrea, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Somalia, Sudan, Tunisia, Uganda, Zambia and Zimbabwe.





1.4 LEGAL FRAMEWORK OF IP PROTECTION AVAILABLE IN MADAGASCAR

The following IP protection is available in Madagascar:

- 1) trade marks: national and international (Madrid Protocol);
- 2) patents: national and international (PCT);
- 3) industrial designs: national;
- 4) copyright and neighbouring rights: national.

1.5 IP REGISTRATION ROUTES

IP protection in Madagascar can be secured at two levels: national and international depending on the IP rights involved.

National

All the IP titles mentioned above can be protected directly in Madagascar through the Malagasy Office of Industrial Property (OMAPI) except copyright which is covered by the Malagasy Office of Copyrights (OMDA). More details can be found on the IP office website here: <http://www.omapi.mg/> and the Copyright Office here: <http://www.omda.mg/index.html>.

International

Madagascar is also a contracting party to the Madrid Protocol and the Patent Cooperation Treaty (PCT). It is therefore possible to register international trade marks and designate Madagascar through the Madrid System. More information is available at: <https://www.wipo.int/madrid/en/>. Patent applications designating Madagascar can also be filed through the PCT system. More information is available at: <https://www.wipo.int/treaties/en/registration/pct/>.

Choosing a suitable registration route: trade marks, patents, utility models and industrial designs.

A **national** route is suitable when trade mark, patent or industrial design protection is required in Madagascar only.

An **international** route is advisable for trade mark and patent protection only when protection is required in more countries than Madagascar.





Useful information:

Professional representation

Foreign applicants whose principal place of business is outside Madagascar must appoint a local agent. (For local applicants this is optional). OMAPI accepts signed and notarised powers of attorney without any need for legalisation. However, you should check with your IP service provider in Madagascar whether hard copies are necessary or scanned copies sent by email are acceptable.

SECTION 2: OVERVIEW OF IP ENFORCEMENT

Madagascar is a signatory of the WTO's TRIPS Agreement and its IP laws are substantially TRIPS-compliant in terms of providing a legal framework for the protection and enforcement of IP rights in the country.

The Office Malgache des Propriétés Industrielles or Malagasy Office of Industrial Property (OMAPI) is the sole institution responsible for the registration and administration of industrial property.

The Office Malgache des Droits d'Auteurs or Malagasy Office of Copyrights (OMDA) ensures the exclusive protection, defence and management of the economic interests of Malagasy and foreign copyright owners. The OMDA is empowered to institute legal proceedings to defend the rights for which it is responsible. Officially, these two institutions protect against IP infringement but their enforcement capacity is limited due to resource constraints.

Aside from the enforcement mechanisms available through the criminal justice system, the current IP law also provides for civil remedies. It is up to the rights holders to pursue lawsuits against infringing parties. Despite the existence of relevant laws and institutions enforcing IP rights, as well as the claims of stakeholders that indicate serious challenges surrounding counterfeiting and piracy, there is no available data on IP cases that have been prosecuted in the country. Madagascar does not officially publish reports of seizures of counterfeit goods, which remain easily available in local markets. The copyright law provides for provisional measures to prevent infringements and preserve relevant evidence related to an alleged infringement. Police commissioners and, in places where there is no police commissioner, the court with territorial jurisdiction, are obliged, at the request of any author of a work or holder of a related right or their licensees or successors in title, to seize the copies constituting an unlawful reproduction of this work or of an object protected by the related rights.

Civil remedies include court injunctions, confiscation of offending goods and payment of damages to the rights holder for any economic damage suffered because of an





infringement of their rights. Criminal sanctions include substantial fines and potential prison sentences. Rights holders are expected to take an active role in protecting their work and taking action against infringers. Any enforcement action should be initiated by the rights holder. This includes reporting infringements to the police or customs (in the case of the importation of infringing goods) and also seeking the intervention of the courts to fight third parties who infringe their rights.

SECTION 3: TYPES OF AVAILABLE IP PROTECTION

3.1 TRADE MARKS

Trade marks are protected under Ordinance No 89-019 of July 31, 1989, Establishing Arrangements for the Protection of Industrial Property and the subsequent implementing decrees (Decrees No. 92-993 and No. 92-994 of 2 December 1992). Madagascar uses a multi-class filing system. The law defines a mark as any visible sign intended and capable of distinguishing the goods or services of one enterprise from those of other enterprises.

The country is not a signatory to the Nice Agreement but uses the Nice Classification. Classifications based on the latest edition of Nice at the time of filing of an application are accepted.

National and international trade marks can be registered in Madagascar as explained below.

Benefits of registering a trade mark

- A registered trade mark gives the owner exclusive rights to use it to market their products and services; it gives the owner protection against others using the same mark or a similar mark without authorisation.
- Over time, a well-maintained trade mark can build the owner's brand and become an asset to their company. This can enable them to expand their business by licensing it to others, franchising or obtaining finance.

3.1.1 Who can register a trade mark?

A natural person, a company or any other entity can apply to register a trade mark. However, a person who does not have their place of business in Madagascar needs a professional representative.

3.1.2 What are the registration requirements?





A trade mark application must contain the following:

- a request for registration of the mark;
- a reproduction of the mark;
- a signed and notarised power of attorney;
- a list of the goods and/or services, based on the Nice Classification;
- name, nationality and address of the applicant, or full name (as on the Certificate of Incorporation) and address of the company;
- a certified copy of the priority document, if applicable;
- the prescribed application fees.

3.1.3 What qualifies for registration?

The following are suitable for registration as a mark:

- surnames as such or in a distinctive form, special, arbitrary or fanciful denominations, the characteristic form of a product or of its wrapped presentation, labels, envelopes, emblems, prints, stamps, seals, colours, designs, reliefs, letters, devices, slogans, pseudonyms and, in general, any materialised signs that are sufficiently distinctive for the use for which they are intended.

3.1.4 What cannot be registered?

The following may not be registered:

- Signs the use of which is contrary to public policy or morality and which, in particular, are liable to deceive trade circles or the public as to the nature, the source, the manufacturing process, the characteristics or the suitability for their purpose, of the goods or services concerned;
- signs which reproduce or imitate the armorial bearings, flags and other emblems, official signs or hallmarks adopted by a State, initials, names or abbreviations of names of any State or of any intergovernmental international organisation unless authorised by the competent authority of such State or organisation;
- signs incapable of distinguishing the goods or services of one enterprise





from those of other enterprises, particularly where:

- i. The sign is merely the shape of the goods or their packaging, dictated by their nature or function.
 - ii. The sign solely indicates characteristics like kind, quality, quantity, purpose, value, or time of production or supply.
 - iii. The sign has become a customary designation in current language or local trade practices.
- signs that consist exclusively or in part of a geographical indication liable to mislead as to the geographical origin of the goods and services concerned or which, if they were registered as a mark, would unduly interfere with use of a geographical indication;
 - signs that conflict with a prior right.

3.1.5 Where can I file an application?

The Malagasy Office of Industrial Property (OMAPI). More details can be found on the IP office website here: <http://www.omapi.mg/>.

WIPO's International Bureau, through the Madrid System.

3.1.6 How much does it cost?

Government (official) fees

The fees are published via an administrative regulation or order. Both local and foreign applicants may pay using the local currency (Malagasy Ariary). The official fees for national and international filings are listed on the OMAPI website: http://www.omapi.mg/taxes_marques.html#taxes-systme-de-madrid.

Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three OMAPI-accredited professional representatives. A list is available on this web page: http://www.omapi.mg/listes_des_mandataires.html

Likely overall registration costs

An applicant can expect the cost of registering a trade mark to be in the region of the amounts set out in the table below (in MGA), unless objections and other special circumstances that may increase the costs apply.





Description of Process/ Service	Official Fees (MGA)
Filing and registration fees (up to three classes)	180 000
Each additional class after the 3rd	20 000
Priority fees	30 000
Renewal fees	200 000
Late renewal fees	40 000

3.1.7 How long does registration take?

The trade mark registration process takes 6-12 months from the filing date, assuming there are no unusual delays. There is no provision for filing an opposition to the registration of a trade mark.

3.1.8 What is the duration of protection?

10 years from the filing date, renewable for similar periods.

3.2 PATENTS

Madagascar Patent Registrations

National and international patents can be registered in Madagascar in the following ways.

National

Applications can be filed at the Malagasy Office of Industrial Property (OMAPI). More details can be found on the IP office website: <http://www.omapi.mg/>.

International

Through WIPO's International Bureau under the Patent Cooperation Treaty (PCT) route designating Madagascar. More details can be found here: <https://www.wipo.int/pct/en/>

Choosing between a national or international patent registration for Madagascar

The decision about whether to register a patent in Madagascar through the national or international route is usually guided by the following considerations:

- whether patent protection is required only in Madagascar or in multiple





jurisdictions: applicants will usually opt for the international route if multiple-jurisdiction protection is required;

- **cost-effectiveness:** the PCT route's centralised patent filing system is usually considered to be more cost-effective than national applications for more than one jurisdiction.

Choosing between registration routes

Most patent applications for Madagascar are non-resident PCT national phase applications. It is more cost-effective to file a single application via the PCT route to gain patent coverage in more countries including Madagascar.

3.2.1 Who can register a patent?

Any inventor or successor in title of an invention can apply to register a patent.

3.2.2 What are the registration requirements?

A patent application must contain the following:

- a signed and notarised power of attorney;
- a request for the grant of a patent:
- Applications shall be accompanied by:
 - I. a description followed by one or more claims;
 - II. where appropriate, one or more drawings;
 - III. a descriptive abstract.

Applications shall be drafted in one of the following languages: Malagasy; French; the Agency shall be entitled to request a translation into the other language.

- the applicant's details including full name, nationality, legal status and physical address or, if it is a company, its Certificate of Incorporation;
- the Deed of Assignment, if the applicant is not the inventor;
- a certified copy of the priority document, if applicable;
- the prescribed application fees.

3.2.3 What qualifies for registration?





Any new invention resulting from an inventive activity and that is capable of at least one industrial application.

An invention must meet the following requirements:

- **Novelty** – an invention is considered new if it is not included in the prior art. Prior art comprises everything made available to the public, at any place or at any time, by means of a written or oral description, by use or in any other way, before the date of filing of the patent application or the date of any priority validly claimed for the invention.
- **Inventive step** – it may not derive obviously from either the state of the art or the normal skill of a man of the art.
- **Industrial applicability** – it must be capable of being manufactured or used in any type of industry.

Madagascar law provides for product and process patents.

3.2.4 What cannot be registered?

The following cannot be patented:

- inventions contrary to public policy or morality;
- plant or animal varieties or essentially biological processes for the production of plants or animals;
- software;
- methods, systems, schemes, discoveries and scientific theories as abstractions of pure form that do not solve a material problem or do not provide a tangible technical solution, notwithstanding the protection of practical applications that incorporate them;
- pharmaceutical, veterinary, cosmetic and food products.

3.2.5 Where can I file an application?

National applications, non-Convention, Convention and PCT national phase applications must be filed at the Malagasy Office of Industrial Property (OMAPI). More details can be found on the IP office website: <http://www.omapi.mg/>.

International or PCT applications designating Madagascar can be filed at WIPO's International Bureau.





3.2.6 How much does it cost?

National (OMAPI) and PCT national phase fees

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

Government (official) fees

The fees are published via an administrative regulation or order. Both local and foreign applicants may pay using the local currency (Malagasy Ariary). The official fees are listed on the OMAPI website: http://www.omapi.mg/taxes_brevet.html.

Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three OMAPI-accredited professional representatives. A list is available on this web page:

http://www.omapi.mg/listes_des_mandataires.html.

Likely overall registration costs for a patent

An applicant can expect the cost of registering a patent to be in the region of the amounts set out in the table below (in MGA), unless objections and other special circumstances that may increase the costs apply.

Type of fee	Official Fees (MGA)
Application fees (1st and 2nd year)	180 000
Priority fees	65 000

International (PCT) fees

There are three types of fees for international applications: international filing fees, search fees and transmittal fees. More details about PCT fees can be found on this web page: <https://www.wipo.int/pct/en/fees/>

Note on professional fees

Professional fees vary depending on several factors, such as the level of experience of the professional concerned and the time spent on a task, amongst others. It is advisable to obtain comparative quotes of fees from at least three OMAPI-accredited





professional representatives. A list is available on this web page:
http://www.omapi.mg/listes_des_mandataires.html.

3.2.7 How long does registration take?

Patent applications are only formally examined in Madagascar. The law also provides for substantive examination although this does not happen in practice. The registration process takes up to 12 months to complete.

3.2.8 What is the duration of protection?

Protection lasts 15 years from the filing date, but can be extended up to 5 years by providing proof of use in Madagascar.

3.2.9 When are renewal fees paid?

Renewal fees are paid in advance for each year, the first and second being paid on the filing date of the application. A grace period of 6 months is granted for late payment of annual fees in return for payment of the prescribed surcharge.

Annuities

The following government (official) fees are currently applicable:

Annuity year	Official fees (MGA)
3rd to 5th, per year	125 000
6th to 10th, per year	380 000
11th to 15th, per year	650 000
Fee for extension of protection beyond the 15 th year	40 000
16th to 20th, per year	750 000
Late fee for payment of annuity	50 000

3.3 UTILITY MODELS (UMs)

There are no provisions for the registration and protection of utility models in Madagascar.

3.4 INDUSTRIAL DESIGNS

The law defines an industrial design as any composition of lines or colours or any three-dimensional form, whether or not associated with lines or colours. Such composition or form shall be required to give a special appearance to a product of industry or handicraft





and be able to serve as a pattern for a product of industry or handicraft.

The protection provided for by this law does not extend to purely technical features of an industrial design or model.

Madagascar industrial design registration

Industrial designs can only be registered in Madagascar through the national route and applications must be filed at the Malagasy Office of Industrial Property (OMAPI).

Examination and novelty of designs for Madagascar

Madagascar does not carry out a substantive examination of design applications. Applications are only examined as to their compliance with formal requirements.

3.4.1 Who can register?

Any inventor or successor in title can apply to register a design in Madagascar.

It is possible for two or more persons or companies to jointly own and apply for the registration of an industrial design.

3.4.2 What are the registration requirements?

The application for the registration of an industrial design shall contain the following:

- a signed and notarised power of attorney;
- a request for registration of an industrial design;
- the applicant's details including full name, nationality, legal status and physical address or, if it is a company, its Certificate of Incorporation;
- the Deed of Assignment, if the applicant is not the creator;
- a certified copy of the priority document, if applicable;
- an application for an industrial design may be accompanied by a specimen in color, in relief or in three dimensions, in two identical copies;
- Where appropriate, the application for registration shall be accompanied by a written statement by the creator, by which he requests to be mentioned as such in the registration or authorizes the applicant or his successor in title to apply for registration without such mention;





- the indication of the kind of products for which the industrial design is intended to be used;
- a copy of the subject incorporating the industrial design;
- payment of the prescribed fees.

An application may contain only one industrial design.

3.4.3 What qualifies for registration?

Any industrial designs that differ from other similar designs either by their distinct and recognisable configuration that affords them a novel nature or by one or more superficial effects that give them an individual new appearance.

If those elements that constitute the novelty of the design are inseparable from those that serve solely to obtain a technical result capable of leading to an invention that is patentable in itself, the design concerned may not enjoy protection.

3.4.4 What cannot be registered?

A design cannot be registered if:

- it is contrary to public order or morality;
- the design is functional and serves solely to obtain a technical result.

3.4.5 Where can I file an application?

Applications must be filed at the Malagasy Office of Industrial Property (OMAPI).

3.4.6 How much does it cost?

National fees

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

Government (official) fees

The fees are published via an administrative regulation or order. Both local and foreign applicants may pay using the local currency (Malagasy Ariary). The official fees are available on this web page: http://www.omapi.mg/taxes_dm.html.





Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three OMAPI-accredited professional representatives. A list is available on this web page: http://www.omapi.mg/listes_des_mandataires.html

Likely overall registration costs for a national industrial design

An applicant can expect the cost of registering an industrial design to be in the region of the amounts set out in the table below (in MGA), unless objections and other special circumstances which increase costs apply.

Type of fee	Official Fees (MGA)
Application and registration fees	41 700
Priority fees	25 000

3.4.7 How long does registration take?

National design applications usually take 3-6 months to complete registration.

3.4.8 What is the duration of protection?

The duration of validity of the registration of an industrial design is 5 years from the filing date. Registration may be renewed for two consecutive periods of 5 years each, at the fifth and tenth years.

3.4.9 When are renewal fees paid?

Renewal fees must be paid within 12 months from the due date. Late payment of the renewal fees is possible within a grace period of 6 months after the due date subject to payment of late renewal fees.

The renewal fees are currently MGA 50 000 for the first renewal if the applicant chooses to extend the duration of the design from 5 to 10 years and MGA 50 000 for the second and final renewal if they choose to extend the duration from 10 to 15 years.

3.5. GEOGRAPHICAL INDICATIONS (GIs)

There are no provisions for registration and protection of GIs in Madagascar.





3.5.1 Can European GIs be registered?

European GIs do not appear to be registrable under the current national law.

For information about the protection of the European GIs in African countries, the Organization for an International Geographical Indications Network should be consulted at: <https://www.origin-gi.com/>

3.6. LAYOUT DESIGNS OF INTEGRATED CIRCUITS

There are no provisions for registration and protection of layout designs of integrated circuits in Madagascar.

3.7. TRADITIONAL KNOWLEDGE AND HANDICRAFTS

There is no specific law dedicated to the registration and protection of traditional knowledge or traditional cultural expressions in Madagascar. However, the country's copyright law (Law No94-036 of September 18, 1995, on Literary and Artistic Property) provides for the protection of expressions of folklore.

Expressions of folklore

These are defined under the copyright law as productions of elements characteristic of Madagascar's traditional cultural heritage developed and perpetuated by a community or by individuals recognised as meeting the expectations of that community, including popular tales, popular poetry, songs and instrumental music, in addition to the artistic expressions of rituals and the productions of popular art.

The law explicitly mentions that expressions of folklore are not works within the meaning of copyright law. They do, however, enjoy similar protection provided in terms of the copyright law.

3.8 COPYRIGHT AND NEIGHBOURING RIGHTS

About copyright and neighbouring rights in Madagascar

Copyright is protected under Law No 94-036 of September 18, 1995, on Literary and Artistic Property.

3.8.1 Can I register?

The protection of copyright in Madagascar is automatic and does not require any





formalities, this is in line with the Berne Convention for the Protection of Literary and Artistic Works. However, there is an opportunity for authors of works recognised by the law to register their works.

3.8.2 What qualifies for protection?

All intellectual works, whatever their genre, form of expression, merit, medium or intended use:

- Books, brochures and other literary, artistic and scientific writings.
- Lectures, speeches, sermons, oral addresses and other works of the same nature.
- Dramatic or dramatico-musical works.
- Choreographic works, circus acts or turns and pantomimes, whose performance is fixed in writing or otherwise.
- Musical compositions with or without words.
- Cinematographic and other works consisting in a series of interlinked images which give an impression of movement, whether or not they are accompanied by sound and, if it is accompanied by sound, capable of being audible, referred to together as audiovisual works.
- Works of drawing, painting, architecture, sculpture, engraving and lithography.
- Graphic and typographic works.
- Photographic works and those done using techniques analogous to photography.
- Works of applied art which are two- or three-dimensional artistic creations that have a utilitarian function or are incorporated into a utilitarian article, whether a handcrafted work or one produced using industrial processes.
- Illustrations and geographical maps.
- Plans, sketches and plastic works relating to geography, topography, architecture and science.
- Software programs which are sets of instructions expressed in words, codes, diagrams or any other form which, once they have been incorporated into a medium decipherable by a machine, may enable a computer to perform a task or achieve a particular result – an electronic or similar process capable of processing information.
- The clothing and finery creations of seasonal industries.
 - Seasonal clothing and finery industries are those that frequently update the form of their products, in particular dressmaking, the fur industry, underwear, embroidery, fashion, shoes, glove-making, leather goods,





the manufacture of original fabrics or special fabrics for haute couture, and goods produced by finery makers, boot makers and the manufacturers of furnishing fabrics.

- Expressions of folklore – these are productions of elements characteristic of Madagascar’s traditional cultural heritage developed and perpetuated by a community or by individuals recognised as meeting the expectations of that community, including popular tales, popular poetry, songs and instrumental music, in addition to the artistic expressions of rituals and the productions of popular art. These expressions of folklore are not works within the meaning of this law. They do, however, enjoy similar protection provided in a decree.
- Translations, adaptations, transformations or arrangements of intellectual works and expressions of folklore.
- Anthologies or collections of diverse works, or expressions of folklore, and databases. databases and compilations of data or information are protected by copyright, but only in terms of the selection and arrangement of their contents. If the compilation includes works, both the compilation and the individual works are independently protected. However, for compilations of information, only the compilation itself receives protection, not the underlying information.

Provided it is original, the title of an intellectual work is protected as the work itself.

3.8.3 What cannot be protected?

Any work whose subject matter does not qualify for legal protection. This includes the following:

- any official texts of a legislative, administrative or judicial nature, as well as any official translations;
- published daily news or news communicated to the public;
- any idea, procedure, system, methods of operation, concepts, principles, discovery or mere data, even if expressed, described, explained, illustrated or embodied in a work.
- any work that is contrary to law, public order or morality.

3.8.4 What are the requirements for legal protection?

The original intellectual work must be in one of the following categories mentioned in section 3.8.2.





3.8.5 What are examples of acts permitted in relation to copyright works?

Permitted acts that do not infringe copyright include:

- reproducing a work lawfully published exclusively for the private use of the user;
- private performances given free of charge and exclusively within the family circle;
- performances at official or religious ceremonies to the extent warranted by the nature of these ceremonies;
- performances given in the context of the non-lucrative activities of teaching establishments;
- parody, pastiche or caricature, taking into account the laws of the genre;
- use of analyses and short quotations lawfully published in another work, provided the source and the name of the author are given, and where this name features in the source, provided this quotation is in line with good practice and provided its length is no greater than that warranted by the goal to be achieved;
- use a work lawfully published as an illustration in publications and in broadcasts of sound or visual recordings intended for teaching;
- reproducing by reprographic means for teaching or examinations in teaching establishments subject to the obligation to give the source and the name of the author, where this name features in the source;
- reproducing and distributing to the press, to broadcast on radio or to communicate by cable to the public, an economic, political or religious article published in newspapers or periodicals, or a broadcast work of the same nature, where the right to reproduce, to broadcast or to communicate in this way to the public is not expressly reserved subject to the obligation to give the source and the name of the author, where this name features in the source;
- reproducing or making accessible to the public, for the purpose of reporting topical issues using photography or cinematography or by means of broadcast or cable communication to the public, a work seen or heard during an event;
- reproduction by the press, to broadcast [on radio] or to communicate to the public political speeches, lectures, addresses, sermons and other works of the same nature delivered in public and speeches made at trials, for the purpose of giving information on current events;





- reproducing a work intended for a judicial or administrative procedure;
- reproduce, broadcast, or communicate an image of a work (such as architecture, fine art, photography, or applied art) permanently located in a public place without the author's permission or payment. This exception does not apply if the image is the main subject or used for commercial purposes.
- Libraries and archives not aiming for commercial profit can make isolated reprographic copies of certain works without the author's permission. This includes:
- Articles, short works, or extracts used for study or research, provided it's a one-time reproduction and not repeated on unrelated occasions.
- Copies made to preserve or replace a work that is lost, destroyed, or unusable, given that it's not possible to obtain a replacement under reasonable conditions.
- Libraries and archives may lend copies of written works (excluding software) to the public without the author's permission or payment, provided they are not engaged in commercial profit.
- Any reproduction or use of software, other than making a backup copy, is illegal without the author's explicit permission.

3.8.6 What acts are not permitted in relation to copyright works?

Unpermitted/restricted acts include:

- performance, reproduction, distribution and exhibition of the work to the public;
- communication to the public;
- broadcasting or re-broadcasting of the work to the public;
- reprographic reproduction.

3.8.7 What is the duration of protection?

The duration of copyright protection is as follows:

- **literary and artistic works:** the lifetime of the author or last surviving author in the case of co-authored works) plus 70 years;
- **Collaborative Works:** The 70-year protection period begins after the death of the last surviving collaborator.
- **Pseudonymous/Anonymous Works:** Protection lasts 70 years from January 1 of





the year following publication. If the authors become known, the protection period is adjusted according to standard rules.

- **Staggered Publications:** Each publication in a series is protected individually for 70 years following the author's death.
- **Posthumous Works:** Protected for 70 years from January 1 of the year following publication. If published within the standard 70-year period after the author's death, rights belong to the author's successors.
- **Software Programs:** Copyright lasts 20 years from the date the software was designed.
- **Surviving Spouse:** A surviving spouse has beneficial rights to exploit the work, which lasts for the duration of the standard 70-year period unless they remarry.
- **Resale Royalty Right:** After the author's death, the resale royalty right continues for 70 years, benefiting the heirs and the surviving spouse.

3.8.8 Can I renew copyright after its term of protection expires?

Copyright cannot be renewed in Madagascar once its term has expired. The work falls into the public domain at the end of the term of protection.

Links to legislation:

IP Legislation (OMAPI): http://www.omapi.mg/textes_et_lois.html

Links to institutions:

- ✓ AfCFTA – African Continental Free Trade Area: <https://au-afcfta.org/>
- ✓ Malagasy Office of Industrial Property (OMAPI): <http://www.omapi.mg>
- ✓ Malagasy Office of Copyrights (OMDA): <http://www.omda.mg/index.html>





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