

USE OF IMAGES IN ACADEMIC PAPERS

WHEN MAY I USE AN IMAGE IN MY PAPER?

If you wish to use an image or illustration in your paper, you have to consider the following questions:

1. Is such use permitted under copyright law?
2. Is there a contractual permission to use the image or illustration?
3. Are there any other rights which have to be observed?

1. IS SUCH USE PERMITTED UNDER COPYRIGHT LAW?

As a matter of principle, the following applies: a copyright protects the author who has created works of an individual character (e.g. texts, computer programs, databases, graphics, photographs, music, etc.) against unauthorised use of his/her works.

With regard to images the Austrian Copyright Act [Urheberrechtsgesetz/UrhG] distinguishes between:

- photographic works (= artistic photos; photos with a certain creative level, Section 3(1) UrhG),
- photos (= photos, any snapshots whatsoever, Section 73(1) UrhG),
- and other images, e.g. engineering drawings.

Every photo (= photographic works and photos) is protected by copyright upon its creation.

Other images (engineering drawings, simple graphics, etc.) are protected by copyright only if they reach the required creative level, i.e. if they can be distinguished from merely program-generating graphics due to a personal creative work of the author. A copyright symbol as can sometimes be found (©) is not necessary and does not change anything with respect to copyright. Every work as described above is protected by copyright upon its creation without such right having to be applied for or the work having to be published.

Apart from the moral rights (e.g. the right to be stated as the author and protection of the integrity of the work) copyright protection also includes the so-called exploitation rights (e.g. reproduction, making the work accessible to the public).

Therefore, images and photos must neither be reproduced nor disseminated or made available by third parties without asking for permission in advance. However, there are several exemptions:

You may use images and photos under the right to cite. This right permits incorporation of images and photos into an academic paper if the images and photos serve the purpose of explaining the content (serving as support or evidence). In that case the source must be stated. Contrary to citations from books or essays where only parts of the complete work are used, the complete work of the author is cited with every image or photo. Please note however, that any alterations of works are permitted only if the consent of the rights holder has been obtained (Section 14(2) UrhG).

Example: You include in your doctoral thesis a published image of an experiment set-up which you require as the basis for your other experiments described in the paper. You explain the image in detail. You state the source correctly.

- The purpose of the citation (experiment set-up which constitutes the basis for further studies) is fulfilled.
- The image is explained in detail.
- The source has been stated.
- **The image citation is permitted.**

Term of copyright protection:

Photographic works are copyrighted for 70 years from the death of the author (Section 60(1) UrhG), simple photos are protected for 50 years after the photo was taken or published (Section 74(6) UrhG). The term of protection expires at the end of the 70th anniversary of the death of the author or at the end of the 50th year after the photo was taken or published, respectively. Thereafter, the image is in the public domain. You will still be required to cite in accordance with the rules of good academic practice, but you may now use it also beyond the said purpose of citation (supporting of arguments, academic paper).

Please note that copyrights are heritable and that after the author's death the rights may be represented by his/her heirs or a foundation which has been founded specifically for that purpose.

Example: You use a photograph from a historic depiction in your doctoral thesis.

The photo is not required to support your arguments, but illustrative. The photographer died more than 70 years ago. You state the source of the photo correctly.

- The author died more than 70 years ago: The photo is in the public domain.
- You state the source.
- **The image citation is permitted.**

2. IS THERE A CONTRACTUAL PERMISSION TO USE THE IMAGE?

If an image cannot be cited under the right to cite, you may only use it if you have obtained the consent of the rights holder to use an image. The consent may also be given orally, but a written permission will give you more certainty.

It is important that you are sure to know the actual rights holder. For example, the exploitation rights to an image may also have been assigned to a publisher if the author of the image has published the image him/herself in the past and signed a relevant agreement.

Another form of written consent to use images are Creative Commons licences. By means of such licences the copyright holder may grant the public extended rights of use. This means that Creative Commons licences always extend the provisions of copyright law.

Another note: Please bear in mind that images from image databases, such as, e.g. Fotolia, Shutterstock, Pixelio, etc. must be attributed exactly as specified by those agencies in their terms of use.

3. ARE THERE ANY OTHER RIGHTS WHICH HAVE TO BE OBSERVED?

When using images, you must also observe the **copyright to the depicted motifs**. This exists besides the copyright of the photographer of the image itself, e.g. to depicted works of art or buildings. Buildings and works of art are protected by copyright. Accordingly, even if you have taken the photograph yourself, you need the architect's or artist's consent for publication. This copyright protection expires only 70 years after the death of the author.

There is one exception to this rule: The "**freedom of panorama**" allows the publishing of photographs of buildings even without special consent if the building is located in a place that serves public traffic (Section 54(1) No. 5 UrhG). However, it also includes buildings located on private land.

The freedom of panorama also includes works of art which are permanently located in a public place². A prerequisite for "free use" of a photo of a building is that the photo must have been taken from public property, i.e. either from a public street or road or pavement. This means that the photographer must stand on public property.

The interior of a building and the rooms designed by the architect and their individual elements may also be photographed. However, such parts of interior design are only covered by the said free use of a work if they are presented in connection with the complete room. If they are reproduced separately with no recognisable connection to the surrounding area they must not be presented in isolation, unless consent has been obtained.

The illustrations must not be altered (e.g. reproduced in a stylised manner).

Please note that the name of the architect of the building may also have to be stated. The name does not have to be stated if the building can be seen in an illustration but is not the main subject of that illustration, i.e. can only be seen "in the margin" or together with several other buildings.

In connection with photos taken inside buildings and on properties, e.g. railway stations, stadiums or private houses, the **domiciliary right** must be observed in addition. Taking photos without authorisation constitutes a violation of the general right to privacy. Also here the consent of the rights holder(s) must be obtained prior to publication.

Also where **persons** are shown in a photo you have to be careful:

By publishing photos the legitimate interests of the persons depicted must not be impaired (so-called right to one's own image as defined in Section 78 UrhG). In this connection also the text relating to the published image and the overall context of publication must be taken into account.

Legitimate interests of a person depicted will be impaired, for example, where an image of him/her is disseminated which has a disparaging or discrediting effect or disfigures or exposes the person to ridicule, if it discloses the private life (privacy) to the public or if an image is used for advertising or promotional purposes.

As a matter of principle, it is recommendable that you obtain the consent of the person concerned in the case of doubt.

4. Captions and lists of illustrations

Illustrations (your own and those of third parties) will be numbered in your paper and given a name. You state the number and name as a caption directly below the image. All illustrations are stated in a separate list of illustrations.

Where images or graphics have been taken from other works, you have to state the source from which you took the images in addition to the numbering and name. The citation will be done in the same form as elsewhere in the paper, e.g. by means of footnotes or in short form directly following the name.

Example of a cited image including source reference in short form:



Illustration No. 2: Wie wird plagiiert? (Weber-Wulff, 2004b)

The work stated in the short reference must be listed in the bibliography.

The list of illustrations is included at the beginning or end of the paper (in the latter case before the bibliography) and lists all images in numerical order. The sources of the illustrations (books, websites, etc.) are included in the bibliography.

Example of a list of illustrations:

Illustration No. 1: Location of sub-libraries p. 4

Illustration No. 2: Organisational structure of the university library p. 10

Illustration No. 3: Flowchart for acquiring books p 14

Illustration No. 4: Acquisition profile for technology / sciences p. 15

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