

UNESCO
WORLD ANTI PIRACY OBSERVATORY

FINLAND

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I. Legislation

1. Copyright Law

Please note that all translations of the provisions of the Copyright Act are unofficial.

- [Copyright Act 8.7.1961/404](#) (as amended on October 9, 1998)

The Copyright Act was amended several times:

August 23, 1971 / 669
 July 31, 1974 / 648
 December 19, 1980 / 897
 December 17, 1982 / 960
 June 8, 1984 / 442
 July 27, 1984 / 578
 January 24, 1986 / 54
 March 13, 1987 / 309
 January 11, 1991 / 34
 May 7, 1993 / 418
 December 16, 1994 / 1254
 March 24, 1995 / 446
 April 21, 1995 / 715
 August 21, 1995 / 1024
 December 22, 1995 / 1654
 April 25, 1997 / 365
 October 31, 1997 / 967
 April 3, 1998 / 250
 October 9, 1998 / 748
 May 23, 2003 / 398
 October 14, 2005 / 821
 May 5, 2006 / 345
 July 21, 2006 / 679
 December 22, 2006 / 1228
 December 28, 2007 / 1436
 October 31, 2008 / 663

The Copyright Act goes along with a Copyright decree: **Copyright Decree (21.4.1995/574)**

This decree was also amended several times:

March 15, 1996 / 160
 December 15, 2005 / 1036
 December 14, 2006 / 1173
 January 3, 2008 / 1
 December 18, 2008 / 1004

2. Other Laws

- [Penal Code](#)
 CHAPTER 49: Violation of certain intellectual property rights (21.4.1995/578)
- [The Code of Judicial Procedure](#) (4/1734; English translation of amendments up to 259/2002 available)

- The Coercive Measures Act (450/1987)
- The Act to Safeguard the Evidence in Civil Actions Concerning Intellectual Property Rights (344/2000; amended by Act No. 678/2006)
- [The Act on provision of information society services](#) (458/2002)

3. Latest developments and perspectives

There are no initiatives such as amending the Copyright legislation at the moment in hand.

However, branch talks on the promotion of electronic commerce of copyrighted content and reduction of illicit file sharing over the internet conducted in September and October 2008.

A working group of state officials is now about to starting to review the possibly needed amendments to legislation geared to reduce illicit file sharing over the internet. One of the most important questions will be how the legislation would allow communications and targeted messages to be delivered to those connection owners whose IP addresses are used for illicit file sharing.

4. Summary of Legislation

- *Authors' rights*

The Copyright Act, in its Chapter I "Subject matter and scope", states that the Author is entitled to certain rights, which can be moral as well as economic rights.

Note that the Finnish Copyright Act is quite concise when giving the definition of authors' rights.

Moral rights

Article 3

When copies of a work are made or when the work is made available to the public in whole or in part, the name of the author shall be stated in the manner required by proper usage.

A work may not be altered in a manner which is prejudicial to the author's literary or artistic reputation, or to his individuality; nor may it be made available to the public in such a form or context as to prejudice the author in the manner stated.

The author may with binding effect waive his right, which he has under this Article, only in regard to use limited in character and extent.

Economic rights (note that the economic rights that are exclusive are underlined).

Article 2

Within the limitations imposed hereinafter, copyright shall provide the exclusive right to control a work by reproducing it and by making it available to the public, in the original form or in an altered form, in translation or in adaptation, in another literary or artistic form, or by any other technique.

The reproduction of a work shall comprise making copies of the work in whole or in part, directly or indirectly, temporarily or permanently and by any means or in any form whatsoever. The reproduction of a work shall also comprise the transfer of the work on to another device, by which it can be reproduced or communicated.

A work is made available to the public when it is communicated to the public by wire or wireless means, including communication in a way which enables members of the public to access the work from a place and at a time individually chosen by them; it is publicly

performed to an audience present at a performance; a copy thereof is offered for sale, rental or lending or it is otherwise distributed to the public; or it is publicly displayed without the aid of a technical device. A performance and communication to the public shall also comprise performance and communication to a comparatively large closed circle for purposes of gain.

Note that authors of fine arts also enjoy a *droit de suite* which allow them to benefit from each sale of their piece of work.

Related rights

Related rights owners are *photographers, performing artists, producers of a sound recording, producers of a video recording, radio and television organizations and producers of a catalogue and a database.*

They enjoy the **exclusive right of making the work available to the public**, reproducing it, performing it, distributing it to the public...etc (cf art 45 and 46 of the Copyright Act)

Once the first use of a related right has been done, the exclusive right is not valid anymore and related rights' holders are entitled to a **remuneration for use** (cf art 47 of the Act)

- ***Exceptions and limitations to Copyright***

The Copyright Act, in its Chapter 2 "*Limitations on copyright and provisions concerning extended collective licence*", states that, provided source and author's name are respected, some use of a work can be done without Copyright holder's consent, such as:

- Temporary reproduction
- Reproduction for private use
- Photocopying
- Use for internal communication
- Use of works for educational activities and scientific research
- Reproduction in certain institutions
- Reproduction in archives, libraries and museums
- Reproduction of works for the public and communication of works to the public
- Use of works in libraries preserving cultural material
- Use of works in the National Audiovisual Archive
- Use of works in archives, libraries and museums by virtue of extended collective licence
- Making works available to persons with disabilities
- Composite literary or artistic works used in education
- Distribution of copies of a work, once a copy of a work has already been sold or transferred within the European Economic Area
- Display of a copy of a work that has already been sold or transferred
- Public performance in connection with divine services and Education
- Quotation
- Article on a current topic
- Concert programmes
- Use of works of art in a critical or scientific presentation
- Use of works of art in catalogues and in information and pictorial representation of a building
- Presentation of a current event by broadcasting
- Use of public statements
- Public documents and administration of justice
- Altering of buildings and utilitarian articles

Note that some use of a work are organised with the system of **extended collective licences** (cf art 26 of the Copyright Act). The licences are agreed upon between users and approved organisations of rights' holders.

Extended collective licences concern:

- Original radio and television transmissions
- A new transmission of a television programme stored in archives
- Retransmission of a radio or television transmission
- Retransmission of programmes based on the must carry obligation to transmit programmes

- *Copyright law and "Foreign works"*

The basic rule is that the provisions of the Copyright Act are applied to "Finnish works" the author of which sometimes may be a foreign national.

The Act is applied, *inter alia*,

- to works the author of which is a Finnish national, to works first published in Finland or published in Finland within thirty days of having first been published in another country, or to works of architecture located in Finland
- to performances which take place in Finland, or which have been recorded on a device in Finland
- to sound or video recordings on which the sound or moving images have been recorded in Finland
- to radio and television transmissions which take place in Finland, or elsewhere if the headquarters of the transmitting organization is in Finland.

The applicability of the provisions of the Copyright Act to the use of foreign works in Finland is based on the fact that Finland, as a contracting party to certain international copyright and related rights conventions, has undertaken the obligation to give protection to foreign works on the basis of national treatment.

As far as the European Union and the protection based on nationality are concerned, the prohibition against discrimination based on nationality in the Treaty establishing the European Union means in practice that the Member States are obliged to accord to the nationals of other Member States the same protection as they accord to their own nationals. This means that the protection, bound to the criterion of nationality, harmonized by the copyright and related rights directives must be given to the nationals of all Member States.

- *Duration of Copyright Protection*

The protection lasts **70 years for authors** and **50 years for holders of related rights**. More precisely, the conditions, concerning authors, are dealt with by Chapter 4 of the Copyright Act "Term of Copyright"

Section 43

Copyright shall subsist until seventy years have elapsed from the year of the author's death or, in the case of a work referred to in Section 6, from the year of death of the last surviving author. Copyright in a cinematographic work shall subsist until seventy years have elapsed from the year of the death of the last of the following to survive: the principal director, the author of the screenplay, the author of the dialogue and the composer of music specifically created for use in the cinematographic work.

Section 44

The copyright in a work made public without mention of the author's name or generally known pseudonym or pen name shall subsist until the end of the seventieth year after the

year in which it was made public. If the work is published in parts, the duration of copyright shall be calculated separately for each part.

If the identity of the author is disclosed during the period referred to in subsection 1, the provisions of Section 43 shall apply.

The copyright in a work not made public whose author is unknown shall subsist until seventy years have elapsed from the year in which the work was created.

Section 44a

Anyone who for the first time publishes or makes public a previously unpublished work or a work not made public, which has been protected under Finnish law and the protection of which has expired, shall obtain a right in the work as provided in Section 2 of this Act. The right shall subsist until twenty-five years have elapsed from the year in which the work was published or made public.

- *Presumptions of authorship*

There is no copyright registration system to claim protection in Finland.

Furthermore, article 10 states that:

Notwithstanding the registration of a work as a design in accordance with special provisions, the author may have therein copyright based on this Act.

5. International Treaties

Finland is a member of the following International Convention and Treaties on Copyright and Related Rights:

- [Berne Convention on the Protection of Literary and Artistic Works](#), since 1928
- [Universal Copyright Convention](#), since 1963
- [Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations](#), since 1983
- [WTO Agreement on Trade Related Aspects of Intellectual Property Rights](#), member since 1995
- [WIPO Copyright Treaty](#) (WCT), signed but not yet ratified
- [WIPO Performances and Phonograms Treaty](#) (WPPT), signed but not yet ratified
- [Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms](#), since 1973

II. Measures and remedies

1. Copyright infringement

The copyright infringement is defined, in accordance with the Copyright Act, article 56a “**Violation of copyright**”, ie

Anyone who

1. wilfully or out of gross negligence makes a copy of a work, or makes a work available to the public contrary to the provisions of this Act or infringes the provisions of Section 3 concerning moral rights,

2. otherwise violates a provision protecting copyright in the present Act or acts contrary to a direction issued under Section 41(2), or to a provision of Section 51 or Section 52, or to a prohibition referred to in Section 53(1) or Section 54b(1), or

3. imports into the country or brings onto the territory of Finland for transportation to a third country copies of a work which he knows or has well founded reason to suspect to have been produced outside the country under such circumstances that such production in Finland would have been punishable under this Act,

shall be sentenced to a fine for a violation of copyright, unless the act is punishable as a copyright crime under Section 1 of Chapter 49 of the Penal Code.

The making of single copies for private use of a computer-readable computer program or a database which has been published or copies of which have been sold or otherwise permanently transferred with the consent of the author, or the making of single copies for private use of a work contrary to Section 11(5) shall not be considered to constitute a copyright offence.

Furthermore, the Penal Code, in its Chapter 49, section 1, includes a special provision in paragraph 3 concerning infringements in information networks or committed by means of a data system. However, the basic provision in the first paragraph of Section 1 is applicable to infringements on the Internet as well.

Copyright offence

(1) A person who for profit and in violation of the Copyright Act (404/61) and in a manner conducive to causing considerable inconvenience or damage to the right holder, breaches the right of another to

1. a literary or artistic work;
2. a performance of a literary or artistic work, or folklore;
3. a phonograph record or any other device on which sound has been recorded;
4. a film or any other device on which moving images has been recorded;
5. a radio or television transmission;
6. a catalogue, table, programme or any other production, referred to in Copyright

Act, in which a large number of information items are compiled, or a database which shows that there has been a substantial investment in either the obtaining, verification or presentation of the contents of that database, or

7. a photographic picture,

shall be sentenced for a copyright offence to a fine or to imprisonment for at most two years.

(2) A person shall also be sentenced for a copyright offence if he for profit and in a manner conducive to causing considerable inconvenience or damage to the rightholder, imports for distribution to the public or to the territory of Finland to be re-transported to a third country a copy of a work or photographic picture, a phonograph record, film, or any other device on which sound or moving images has been recorded, or a catalogue, table, programme or any other production, in which a large number of information items are compiled, or a database which shows that there has been a substantial investment in either the obtaining, verification or presentation of the contents of that database, as referred to in first paragraph and reproduced outside the country, while knowing that it has been reproduced in circumstances under which said reproduction would in Finland be punishable under the first paragraph or Article 56a of the Copyright Act.

(3) A person who in an information network or by means of a data system breaches the right of another to protected items referred to in the first subsection in a manner conducive to causing considerable inconvenience or damage to the right holder shall also be sentenced for a copyright offence.

2. Remedies to protect copyright holders

Finnish legislation provides:

- Criminal penalties: fine or imprisonment
- Civil cases:
 - measures for preserving evidence: seizure of materials
 - information on the origin and distribution networks of the infringing goods and services
- compensation/damages and remuneration
- confiscation
- forfeiture: destruction or alteration in specified ways
- publication of judgment
- prohibition to infringe
- prevention of access to material infringing copyright
- injunction to discontinue

3. Provisional measures

Measures *inaudita altera parte*: Section 60c, subsection 3 of the Copyright Act. The measures are aimed to

- prevent access to material infringing copyright
- impose a cease of the copyright infringement

The Court may issue an interim injunction to discontinue if the urgency of the case makes it necessary.

Measures are also foreseen in the Act to Safeguard the Evidence in Civil Actions Concerning Intellectual Property Rights (344/2000). So a Court may order precautionary measure when the situation and evidence allow it. Precautionary measure decisions are enforced by an execution officer, assisted by the Police when necessary.

4. Penalties for copyright infringement

No penalties applied in civil cases.

However - the Copyright Act, in section 56a states that a fine may be ordered in case of violation of Copyright

- the Penal Code, Chapter 49, Section 1 states that a fine or imprisonment at most 2 years, can be ordered in case of copyright offence

The general provisions concerning confiscation are found in the Coercive Measures Act, Chapters 3 and 4.

The Copyright Act includes the following provisions:

Forfeiture

Publication of a judgement

Damages

5. Requirements for foreign persons

As far as access to national Courts is concerned there are no specific requirements for neither natural or legal persons. The same goes when filing a criminal complaint to the police.

Regarding the Customs and their work it is recommend that foreign legal person file an application (EU Regulation 1383/03).

By doing so they will be informed by their respective customs administration of all suspected infringing goods suspended from circulation. Applicants then have the right to examine suspended material and to obtain details of the consignee and consignor together with the origin and provenance of them. Samples may also be provided by individual customs administrations enabling subsequent investigation and forensic analysis.

III. Enforcement

1. Enforcement authorities

The competent institutions are the following:

- the **Courts of justice** (district courts, Courts of Appeal, and the Supreme Court of Finland)
- **police officers** when investigating an alleged infringement
- **public prosecutors** in certain cases
- **customs officers** (enforcement at the border)

All district courts (general courts of justice) have jurisdiction over all copyright cases. In cases dealing with industrial property rights the competent court is the District Court of Helsinki.

Furthermore, section 62 of the copyright Act states the right to institute criminal proceedings :

Section 62

A public prosecutor may not bring criminal action in cases other than a copyright offence in breach of Section 51 or Section 52 or an offence of circumventing a technological measure referred to in Section 56e(2), unless the injured party has filed for prosecution on the matter. (14.10.2005/821)

An action for a breach of Section 3 or of a direction given under Section 41(2) may be brought by the surviving spouse, by heirs in the ascending or descending line or by brothers and sisters, or by a person similarly related to the author by adoption. The lawsuit for a breach of a prohibition mentioned in Section 53(1) above shall be filed by the authority referred to in said section.

2. Enforcement at the border

The enforcement is made through:

- Council Regulation (EC) no 1383/03 administrative customs controls and seizures

- national Copyright act ; especially "**zero-tolerance**" related to importation of goods **infringing copyrights** since 1.1.2006

The competent authorities for implementing rules and regulations regarding copyright infringements at the border are the Finnish Customs.

Customs authorities are entitled to act ex officio in copyright infringement cases.

The Finnish Customs cannot impose any security/equivalent assurance to protect the defendant and prevent abuse.

The importer and the Copyright holder are notified in a timely fashion of the suspension of the release of goods by the Customs.

The suspension of the goods by the Customs authorities are limited in time, by Regulation 1383.03

Note that, at the moment, only the court may order destruction or disposal.

de minimis import exception: The Copyright Act of Finland does not allow any importation for personal use of counterfeit material ("zero-tolerance"), Section 56a(1)(3) above.

IV. Public Awareness

1. Awareness campaigns and actions

2. Promotion of legal exploitation

The Finnish Anti-Piracy organization [CIAPC](#) (The Copyright Information and Anti-piracy Centre), which represent music, movies, games and book publishers. CIAPC is a non-profit association, financed by its members.

CIAPC has published educational packages to schools both lower and upper level. The campaigns have been financed partly by the Ministry of Education. CIAPC has also ran public campaigns to raise awareness about piracy and copyright issues.

The [National Board of Customs](#) has organized awareness campaigns.

3. Associations and organizations with awareness-raising purpose

Besides the [CIAPC](#), there is also a [Finnish Anti-Counterfeiting Group \(FACG\)](#). The members mainly consist of representatives of the Finnish industry as well as of Finnish attorneys specialized in intellectual property rights

The [National Board of Customs](#), Control Department, P.O. Box 512, 00101 Helsinki, Finland

4. Best practices

In 2001, CIAPC launched the "Fake no more" educational campaign to encourage Finnish consumers to avoid pirated copies of CDs, games and videos. The campaign included a

dedicated website (not available) with information on copyright laws and the problem of piracy, as well as quotes from artists.

[Awareness campaign against counterfeit products was organized by the Finnish Customs in 2007. \(in Finnish\)](#)

[A poster of the rock band LORDI was used in that campaign. \(in Finnish\)](#)

[CIAPC poster competition for schools, spring 2008. \(in Finnish\)](#)

[CIAPC antipiracy trailer competition for schools, spring 2008. \(in Finnish\)](#)

V. Capacity building

1. Training

2. Establishment of specialized units and intersectoral groups

3. Best practices

There are no special IP-crime units within the Police organization. IP-crimes are usually investigated by the economical crime units. In more technical questions the police IT-experts give their technical support to the investigating unit. Customs officers have usually good basic knowledge about IP-crimes. Customs can also conduct their own criminal investigations in IP-matters.

The Finnish Office of Prosecutor has appointed so called “key prosecutors” to various different crimes. One of the key prosecutor groups is IT-crimes. These prosecutors also handle complex and more serious IP-crimes.

Most of the anti-piracy training is given by CIAPC and the National Board of Customs. They give regularly training at the School of Customs and Police College of Finland.

VI. Other

1. TPM/DRM

They are dealt with by “Chapter 5a: Technological measures and electronic rights management information”.

Section 50a Prohibition to circumvent a technological measure

An effective technological measure protecting a work protected under this Act, which has been installed as protection for the work by the author or some other person with the author's permission in making the work available to the public, shall not be circumvented.

An effective technological measure means technology, a device or a component which, in the normal course of its operation, is designed to prevent or restrict acts in respect of the work without the author's or other rightholder's authorisation and by means of which the protection objective is achieved.

The provisions of subsection 1 shall not apply if the technological measure is circumvented in course of research or education relating to cryptology or if a person who has lawfully obtained the work circumvents the technological measure in order to be able to listen to or view the work. A work in which the technological measure has been circumvented for the purposes of listening or viewing shall not be reproduced.

The provisions of subsections 1–3 shall not apply to a technological measure protecting a computer program.

Section 50b Prohibition to produce and distribute devices for circumventing technological measures

Devices, products or components enabling or facilitating the circumvention of an effective technological measure shall not be manufactured or imported for distribution to the public; brought onto the territory of Finland for the purpose of exportation to a third country; distributed to the public; sold; rented; advertised for sale or rental; or held in possession for commercial purposes. Nor shall services enabling or facilitating the circumvention of an effective technological measure be offered.

Devices, products or components or services referred to in subsection 1 are those

1. which are promoted, advertised or marketed for the purpose of circumventing effective technological protection measures;
2. whose purpose or use other than circumvention has only limited commercial significance; or
3. which are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of effective technological measures protecting works protected under this Act.

The provisions of subsection 1 shall not apply to a technological measure protecting a computer program.

Section 50c Use of works protected by technological measures

Anyone who is lawfully in possession of or has legal access to a work protected by an effective technological measure and who, pursuant to Section 14(3), Sections 15, 16, 16a–16c or Section 17, Section 25d(2) or Section 25f(2) is entitled to use the work must be able to use the work to the extent necessary to avail himself of the limitations of copyright laid down in said provisions.

The author shall offer the user referred to in subsection 1 the means to use the work in accordance with the provisions referred to in the subsection, if the user lacks the means to use the work owing to the technological measures. If the author does not offer the means referred to above or if the use of the work is not made possible by voluntary measures, such as agreements between the authors and users of the works or other arrangements, the matter shall be resolved by an arbitration procedure referred to in Section 54.

The provisions of subsections 1 and 2 above shall not apply to a work communicated to the public on agreed terms so that members of the public may access the work from a place and at a time individually chosen by them.

The provisions of subsections 1 and 2 concerning the author shall also apply to a person who with the author's consent makes the work available to the public.

The provisions of subsections 1 and 2 shall not apply to a computer program.

Section 56e Offence of infringing a technological measure

Anyone who wilfully or out of gross negligence infringes

1. the prohibition to circumvent a technological measure, as provided in Section 50a, or
2. the prohibition to produce or distribute devices for circumventing technological measures, as provided in Section 50b,

shall be sentenced, unless the act is punishable as a circumvention of a technological measure under Section 3 of Chapter 49 of the Penal Code or as a crime of technological protection circumvention measure under Section 4 of the Chapter, to a fine for the offence of infringing a technological measure.

Furthermore, the **Penal Code**, in its Chapter 49 “**Violation of certain intellectual property rights**” states that:

Section 3 *Breach of the prohibition to circumvent a technological measure*

A person who in violation of the prohibition enacted in Section 50a of the Copyright Act and in a manner conducive to causing considerable inconvenience or damage to the rightholder circumvents an effective technological measure shall be sentenced for circumvention of a technological measure to a fine or to imprisonment for at most one year.

Section 4 *Breach of the prohibition to produce and distribute devices for circumventing technological measures*

A person who in violation of the prohibition enacted in Section 50b of the Copyright Act and in a manner conducive to causing considerable inconvenience or damage to the rightholder produces or imports for distribution to the public, distributes to the public, sells, rents, advertises for sale or rental, or holds in possession for commercial purposes devices, products or components enabling or facilitating the circumvention of an effective technological measure, or who offers services enabling or facilitating the circumvention of an effective technological measure, shall be sentenced for breaching the prohibition to produce and distribute devices for circumventing technological measures to a fine or to imprisonment for at most one year.

2. Licensing Schemes

3. Optical Discs

4. Hotlines

5. Relevant contacts & links