

THE PENAL CODE

(Unofficial translation)

Amendments up to (22.12.2009/1281) included

CHAPTER 49

Violation of certain intellectual property rights (21.4.1995/578)

Section 1 (14.10.2005/822)

Copyright offence

(1) A person who for the purpose of gain and in violation of the Copyright Act (404/1961) and in a manner conducive to causing considerable detriment or damage to the rightholder, 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 have been recorded;
5. a radio or television transmission;
6. a catalogue, table, programme or any other production, referred to in the 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 the purpose of gain and in a manner conducive to causing considerable detriment or damage to the rightholder, imports for distribution to the public or to the territory of Finland to be transported onward 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 have 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 subsection 1 and manufactured or reproduced outside the country, while knowing that it has been reproduced in circumstances under which said reproduction would in Finland be punishable under subsection 1 or section 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 subsection 1 in a manner conducive to causing considerable detriment or damage to the rightholder, shall also be sentenced for a copyright offence.

Section 2 (22.12.2009/1281)

Intellectual property offence

A person who in violation of the Trademark Act (7/1964), the Patents Act (550/1967), the Registered Designs Act (221/1971), the Act on the Protection of Semiconductor Topographies (32/1991), the Utility Models Act (800/1991) or the Plant Variety Rights Act (1279/2009) and in a manner conducive to causing considerable financial loss to a person holding a right, breaches

1. the right to a trademark,

2. the exclusive right conferred by a patent,
3. the right to a registered design,
4. the right to a semiconductor topography,
5. the right to a utility model, or
6. a plant variety right

shall be sentenced for an *intellectual property offence* to a fine or to imprisonment for at most two years.

Section 3 (14.10.2005/822)

Circumvention of a technological measure

A person who in violation of the prohibition in section 50a of the Copyright Act and in a manner conducive to causing considerable detriment or damage circumvents an effective technological measure protecting a work, shall be sentenced for *circumvention of a technological measure* to a fine or to imprisonment for at most one year.

Section 4 (14.10.2005/822)

Offence of a device for circumventing a technological measure

A person who in violation of the prohibition in section 50b of the Copyright Act and in a manner conducive to causing considerable detriment or damage 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 offers services enabling or facilitating the circumvention of an effective technological measure, shall be sentenced for an *offence of a device for circumventing a technological measure* to a fine or to imprisonment for at most one year.

Section 5 (14.10.2005/822)

Offence of electronic rights management information

A person who in violation of the prohibition in section 50d of the Copyright Act and in a manner conducive to causing considerable detriment or damage

1. removes or alters electronic rights management information that identifies the work, its author or some other rightholder or that provides information about the terms governing the use of the work, or
2. distributes to the public or imports for distribution to the public a copy of a work, or communicates to the public a work, in a form in which the electronic management information has been removed from the work or altered without authorisation,

shall be sentenced for an *offence of electronic rights management information* to a fine or to imprisonment for at most one year if the offender is aware that his actions cause, enable, conceal or facilitate violation of rights referred to in the Copyright Act.

Section 6 (14.10.2005/822)

Right to bring charges

The public prosecutor may not bring charges for offences referred to in sections 1–3 and 5 of this chapter, unless the complainant reports an offence to be brought for charges or unless a very important public interest requires that charges be brought.

Section 7 (11.5.2007/540)
Criminal liability of a legal person

The provisions laid down on criminal liability of a legal person apply to a copyright offence.

Coming into force and application of the amendments:

August 21, 1995 / 1010

This Act shall come into force on September 1, 1995.

April 3, 1998 / 251

This Act shall come into force on April 15, 1998.

October 14, 2005 / 822

This Act shall come into force on January 1, 2006.

May 11, 2007 / 540

This Act shall come into force on September 1, 2007.

December 22, 2009 / 1281

This Act shall come into force on January 1, 2010.