

**Act (2005:360) of May 26, 2005,
Amending the Act (1960:729) on Copyright in Literary and Artistic Works**

In accordance with the decision by the Parliament it is hereby prescribed, as regards the Act (1960:729) on Copyright in Literary and Artistic Works,

that the present Article 53a shall be numbered Article 53b,

that Articles 53 and 55 as well as the new Article 53b, shall read as follows,

that in the Act shall be inserted a new Article, numbered Article 53a, reading as follows.

53. Anyone who, in relation to a literary or artistic work, commits an act which infringes the copyright enjoyed in the work under the provisions of Chapters 1 and 2 or which violates directions given under Article 41, second Paragraph, or Article 50, shall, where the act is committed wilfully or with gross negligence, be punished by fines or imprisonment for not more than two years.

Anyone who for his private use copies a computer program which is published or of which a copy has been transferred with the authorisation of the author shall not be subject to criminal liability, if the master copy for the copying is not used in commercial or public activities and he or she does not use the copies produced of the computer program for any purposes other than his private use. Anyone who for his private use has made a copy in digital form of a compilation in digital form which has been made available to the public shall, under the same conditions, not be subject to criminal liability for the act.

The provisions of the first Paragraph apply also if a person imports copies of a work into Sweden for distribution to the public, if such a copy has been produced abroad under such circumstances that a similar production here would have been punishable under that paragraph.

Anyone who has violated an injunction issued under penalty of a fine pursuant to Article 53b, may not be held liable under criminal law for the infringement covered by the injunction.

Attempts to commit acts implying violations referred to in the first and third Paragraphs, and preparations for such acts are punishable pursuant to Chapter 23 of the Criminal Code.

53a. Property in relation to which a violation has occurred pursuant to this Act shall be declared forfeited, if that is not considered obviously unreasonable. Instead of the property itself, its value may be declared forfeited. Also profits from such a violation shall be declared forfeited, if it is not obviously unreasonable. The same applies to what someone has received in compensation for costs related to such a violation, or the value of what has been received, where the act of receiving constitutes a violation pursuant to this Act.

Property that has been used as a tool in connection with a violation under this Act may be declared forfeited, where this is needed in order to prevent violations or where there are otherwise special reasons. The same applies to property that has been intended to be used as a tool in connection with such a violation, where the violation has been carried out or has constituted a punishable attempt or a punishable preparation. Instead of the property itself, its value may be forfeited.

53b. At the request of the author or his successor in title or of a person who, on the basis of a license, has the right to exploit the work, the Court may issue an injunction prohibiting, under penalty of a fine, a person who commits an act implying an infringement or a violation referred to in Article 53 to continue that act.

If the plaintiff shows a probable cause that an act implying an infringement or a violation as referred to in Article 53 takes place, or a contribution to that act, and if it can reasonably be expected that the defendant, through the continuation of the act, or the contribution thereto, diminishes the value that the exclusive right under copyright confers, the Court may issue an injunction, on penalty of a fine, for the time until the case has been finally adjudicated or otherwise is decided. No injunction may be issued before the defendant has been given an opportunity to respond, unless a delay would entail a risk for damage.

An injunction as mentioned in the second Paragraph may be issued only if the plaintiff deposits a security with the Court for the damage which may be caused to the defendant. If the plaintiff is not capable of depositing such a security, the Court may liberate him from making such a deposit. As regards the type of security, the provisions of Chapter 2, Article 25, of the Enforcement Code shall apply. The security shall be examined by the Court unless the defendant has accepted it.

When the case is adjudicated, the Court shall decide whether a prohibition issued under the second Paragraph shall continue to apply.

The provisions on appeal against decisions in Chapter 15 of the Code of Judicial Procedure shall apply as regards appeals against decisions under the second and third Paragraphs and as regards the proceedings in higher Courts.

A request for the imposition of a fine may be made by the person who has requested the injunction. In connection with such an imposition, a request may be made for a new injunction to be issued under penalty of a fine.

55. Anyone who commits an act involving an infringement or a violation under Article 53 shall, if this is considered reasonable, surrender to the author or his successor in title, for a compensation, the property involved in the infringement or the violation. The same shall apply to type matter, printing blocks, moulds or other similar devices which can be used only for the production of property of the kind now mentioned.

Instead of issuing an order for surrender as prescribed pursuant to the first Paragraph, the Court may, at the request of the author or his successor in title, in accordance with what is considered reasonable, order that such property shall be destroyed or altered in specific ways or that other measures shall be taken to prevent wrongful use.

The provisions of the first and the second Paragraphs shall not apply in respect of persons who have in good faith acquired the property or a right in it, nor in cases involving the construction of a work of architecture.

Decisions pursuant to this Article shall not be issued, if forfeiture or measures for the prevention of wrongful use are to be decided pursuant to Article 53 a or the Criminal Code.

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1. This Act enters into force on July 1, 2005.
 2. In respect of criminal acts perpetrated before this Act entered into force, the provisions of the previous version of Article 55 apply.
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