

UNESCO
WORLD ANTI PIRACY OBSERVATORY

ESTONIA

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I. Legislation

1. Copyright law

2. Other laws

- [Copyright Act](#), entered into force 12 December 1992
- Code of Civil procedure, entered into force 1 January 2006
- [Penal Code](#), entered into force 1 September 2002

3. Latest developments and perspectives

No amendments that concern copyright issues have been planned for the moment.

4. Summary of Legislation

- *Authors' rights*

The Copyright Act, in its Chapter III, states that the Author is entitled to moral and economic rights.

Moral rights

They are set forth in article 12 of the Copyright Act, they include:

- right of authorship
- right of author's name
- right of integrity of the work
- right of addition to the work
- right of disclosure of the work
- right of supplementation of the work
- right to withdraw the work

Economic rights

Economic rights are defined by article 13 of the Copyright Act:

*An author shall enjoy the **exclusive right** to use the author's work in any manner, to **authorise or prohibit the use of the work** in a similar manner by other persons and **to receive income from such use** of the author's work except in the cases prescribed in Chapter IV of this Act.*

These economic rights include:

- right of reproduction
- distribution right
- right of translation
- right of translation
- right of alteration
- right of collections
- right of public performance
- right of exhibition
- right of communication

-right of making the work available to the public

- *Related rights*

Besides copyright, the Estonian Copyright Act, chapter VIII, states the rights belonging to related right owners.

These right owners are the **Performers** (art 66-67), the **Producers of phonograms, Broadcasting organisations** and **Producers of films**.

- *Performers* enjoy moral rights, as well as economic rights.

The *moral rights* are the right of authorship, the right of a stage name, the right of inviolability of the performance and the right of protection of its honour and reputation with respect to the performance.

The *economic rights* of performers are set forth in art 67 of the Copyright Act

*“A performer has **the exclusive right to use and to authorise or prohibit the use** of the performance of a work and **to obtain, for such use, remuneration** agreed upon by the parties except in the cases prescribed by this Act and an agreement between the parties.*

These rights are exercised in situations such as recordings of a performance, its broadcasting or the rental or lending right of the recording of a performance.

- *Producers* only enjoy economic rights (cf art 70 to 73 of the Copyright act), mainly the exclusive right to authorise or prohibit reproduction of the work, its importation, distribution, rental, recording, broadcasting...etc.

- *Transfer of Copyright*

When a copyright is transferred, the agreement shall mention a description of the work, the type of license, the territory concerned, the term of the contract and the remuneration of the copyright holder. Such a contract shall be done in writing.

- *Exceptions and limitations to Copyright*

The Copyright Act, in its Chapter IV “Limitations on exercise of economic rights of the author (free use of works) states in 1. Fundamental provisions, article 17:

Limitation to economic rights of authors

*Notwithstanding §§ 13 – 15 of this Act, but provided that **this does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests** of the author, it is permitted to use a work without the authorisation of its author and without payment of remuneration **only in the cases directly prescribed in §§ 18 – 25 of this Act.***

The permitted acts are (art 18 to 25 of the copyright Act)

- Free reproduction and translation of works for purposes of personal use
- Free use of works for scientific, educational, informational and judicial purposes
- Free use of works by public archives, museums or libraries
- Free use of reproductions of works located in places open to public
- Free use of reproductions of works of architecture located in places open to public in real estate advertisements
- Free public performance of works
- Use of ephemeral recordings of works by broadcasting organisations
- Free use of computer programs
- Decompilation of computer programs
- Free use of database

Note that related rights also bear limitations (cf art 75 of the Copyright Act)

*The free use prescribed in this section is permitted only on the condition that that **this does not conflict with normal use and does not unreasonably harm the legitimate interests of holders of related rights.***

The limitations are:

- private use by natural persons
- illustration for teaching and scientific research
- informational purposes
- quotations
- ephemeral recordings

Also note that, in accordance with article the author does not have the right to prohibit the lending of copies of his or her works from libraries but is entitled to receive **remuneration** for such lending.

- *Copyright law and “Foreign works”*

§ 3. - Validity of Copyright Act

(1) The Copyright Act applies to works:

- 1) the author of which is a citizen or a permanent resident of the Republic of Estonia;*
- 2) first published in the territory of the Republic of Estonia or not published but located in the territory of the Republic of Estonia, regardless of the citizenship or the permanent residence of the creator of the works;*
- 3) which must be protected in accordance with an international agreement of the Republic of Estonia.*

(2) This Act applies to works first made available to the public in a foreign state or not made available to the public but located in the territory of a foreign state, the author of which is a person whose permanent residence or registered office is in the foreign state and to which clause (1) 3) of this section does not apply, only if this state guarantees similar protection for works of the authors of the Republic of Estonia and for works first published in the Republic of Estonia.

- *Duration of Copyright Protection*

§ 38. - Term of protection of copyright

*(1) The term of protection of copyright shall be the life of the author and **seventy years** after his or her death, irrespective of the date when the work is lawfully made available to the public*

§ 74. - Duration of related rights

*(1) The rights prescribed in this Chapter shall not expire before the end of a period of **fifty years**:*

- *Presumptions of authorship*

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

Furthermore, § 7. - Moment of creation of copyright states that:

- (1) Copyright in a work is created with the creation of the work.*
- (2) The creation of a work means the moment of expression of the work in any objective form which allows the perception and reproduction or fixation of the work.*
- (3) The registration or deposit of a work or completion of other formalities is not required for the creation or exercise of copyright.*

5. International Treaties

Estonia 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 1994
- [Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations](#), since 2000
- [WTO TRIPS Agreement on Trade Related Aspects of Intellectual Property Rights](#), since 1995
- [WIPO Copyright Treaty](#) (WCT) signed in 1997 but not yet ratified
- [WIPO Performances and Phonograms Treaty](#) (WPPT) signed in 1997 but not yet ratified
- [Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms](#), since 2000

II. Measures and remedies

1. Copyright infringement

Penal Code § 223 gives the following definition:

Unlawful direction of works or objects of related rights towards public

(1) Unlawful public performance, showing, transmission, re-transmission or making available to the public or a work or an object of related rights for commercial purposes is punishable by a pecuniary punishment or up to one year of imprisonment.

2. Remedies to protect copyright holders

Under Civil Law, author or related rights holder may claim (cf art 81 of the Copyright Act)

- compensation for the patrimonial and non-patrimonial damage caused through the unlawful use of a work or an object of related rights;

- termination of the unlawful use of a work or an object of related rights and refrainment from further violation pursuant to § 1055 of the Law of Obligations Act;

Code of Civil Procedure also states that:

§ 280 - Obligation to provide information in action related to intellectual property

(1) If an action is filed due to an infringement or danger of infringement of copyright and related rights or industrial property rights, the court may require at the reasoned request of the plaintiff that the defendant or another person provide written information concerning the origin and distribution systems of the goods or services infringing a right arising from intellectual property.

§ 378. - Measures for securing action

(2) In order to secure an action based on infringement of copyright or related rights, or industrial property rights, the court may, among other, seize the goods concerning which there is doubt of infringement of intellectual property rights or impose an obligation to hand over such goods to prevent the putting on the market or distribution of such goods.

3. Provisional measures

Code of Civil Procedure § 244. - Pre-trial taking of evidence

(1) Pre-trial taking of evidence may be organized by a court ruling during court proceedings at the request of a party or, if good reason exists therefor, also before proceedings are initiated, provided that the opposing party agrees to this or evidence could be lost or using the evidence afterwards could involve difficulties. The court shall also initiate pre-trial taking of evidence in order to safeguard evidence if a person substantiates that the copyright and related rights, or industrial property rights thereof have been infringed, or that a danger of infringement exists.

(2) Inspections may be organised, witnesses may be heard, and expert assessments and other procedural acts may be conducted in the course of pre-trial taking of evidence. If pre-trial taking of evidence is initiated in order to safeguard evidence due to an infringement or danger of infringement of copyright and related rights or industrial property rights, the court may, among other, organise an inspection of samples and recording of a detailed description of samples with or without storing the samples, or seize the infringing goods, or the raw materials, equipment and related documents necessary for the production or marketing of the goods pursuant to the procedure for securing actions.

4. Penalties for copyright infringement

Note that the Estonian law does not provide penalties in civil cases, only compensation of damages.

Penal Code § 223. - Unlawful direction of works or objects of related rights towards public

Unlawful public performance, showing, transmission, re-transmission or making available to the public or a work or an object of related rights for commercial purposes is punishable by a pecuniary punishment or up to one year of imprisonment. The same act, if performed by using a pirated copy, is punishable by a pecuniary punishment or up to 3 years' imprisonment.

An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.

The court shall confiscate the object which was the direct object of the offence provided for in subsection (2) of this section.

Note that the court may order the seizure, confiscation, forfeiture and/ or the destruction of all infringing copies and all equipments or devices used in the manufacture of the infringing copies.

The judgment (inc the penalties) is made available on Internet after the decision is entered into force

The payment to the copyright holder of adequate damages to compensate the injury he/she suffered is available only for civil law case, not for criminal action.

5. Requirements for foreign persons

There is no any special approvals, need to engage any special agents, nor present any special documentation in order to gain access to national courts, customs officials, or police officials to obtain enforcement of their copyright in Estonia.

III. Enforcement

1. Enforcement authorities

The extra-judicial bodies conducting proceedings in matters of misdemeanors are: the Police, Prefectures and the Consumer Protection Board.

There are no specialized courts for copyright/Intellectual property rights in Estonia. Every court instance have a right to deal with copyright cases.

Criminal cases are proceeded only by Police Board.

Code of Criminal Procedure § 6. - Principle of mandatory criminal proceedings
Investigative bodies and Prosecutors' Offices are required to conduct criminal proceedings upon the appearance of facts referring to a criminal offence

2. Enforcement at the border

[Commission Regulation \(EC\) No 1891/2004 of 21 October 2004](#) laying down provisions for the implementation of Council Regulation (EC) No 1383/2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights applies.

IV. Awareness-raising

1. Awareness campaigns and actions

2. Promotion of legal exploitation

The Government of Estonia has initiated in past 10 years initiatives/ actions to fight against piracy and infringement of intellectual property rights.

3. Association and organizations with awareness-raising purpose

[The non-profit association Estonian Organisation for Copyright Protection](#)

[Helpdesk for copyright](#)

4. Best practices

v. Capacity building

1. Training

2. Establishment of specialized units and intersectoral groups

3. Best practices

vi. Other

1. TPM/DRM

TPM are dealt with in the Copyright Act and in the Penal Code.

Copyright Act § 80³. - Technological measure

(1) Authors and holders of related rights may, in order to protect their rights, add technological measures to a work or object of related rights.

(2) For the purposes of this Act, a technological measure means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts related to a work, an object of related rights or a database within the meaning of Chapter VIII¹ of this Act and for which the holder of copyright, the holder of related rights or the maker of the database has not granted the authorisation thereof within the meaning of Chapter VIII¹ of this Act.

(3) With the help of technological measures, the rightholders control the use of protected works or objects of related rights through the application of an access control or protection process which achieves the protection objective (such as encryption, scrambling or other transformation or a copy control mechanism). The technological measures voluntarily applied by the rightholders, including those applied in the implementation of voluntary agreements, shall enjoy protection.

(4) In the cases of free use of the works permitted by § 18, clauses 19 2), 3), 8) and 9) of and §§ 20 and 23 of this Act and objects of related rights permitted by clauses 75 (1) 1), 2), 5) and 6) of this Act, the rightholder shall adjust such measures to his or her work or object of related rights which allow the entitled persons to freely use the work or object of related rights to the extent necessary for the free use in the cases prescribed by law on the condition that entitled persons have legal access to the protected work or object of related rights. If the person entitled to freely use the work or object of related rights and the rightholder fail to reach an agreement on application of the corresponding measures within a reasonable period of time, the person entitled to freely use the work or the object of related rights has the right to address the copyright committee under the conditions set out in § 87 of this Act.

(5) Subsection (4) of this section does not apply to such works and objects of related rights which have been made available to the public on the basis of an agreement in such a way that persons can use them from a place and at a time individually chosen by them.

(6) This section does not apply to computer programs.

Penal Code § 225. - Removal of technical means of protection preventing violation of copyright and related rights

(1) Unlawful removal of a of technical means of protection preventing violation of copyright and related rights, or manufacture, transfer or possession, or advertising for

commercial purposes of a device or equipment intended for removal of such means of protection is punishable by a pecuniary punishment or up to 3 years' imprisonment.

2. Licensing Schemes

3. Optical Discs

4. Hotlines

5. Relevant contacts & links