

Assessing Copyright and Related Rights Systems  
**International and Regional Context**  
Report on Piloting in Finland





cupore

**Assessing Copyright and Related Rights Systems: International and Regional Context. Report on Piloting in Finland.**

This report is the result of the first pilot study implementing Description Sheet 2 – *International and Regional Context*, one of the 37 indicators constituting a methodology framework for assessing the operation of national copyright and related rights systems. The methodology framework has been developed at the Foundation for cultural policy research (Cupore) in Finland as part of a project financed by the Finnish Ministry of Education and Culture. The pilot study was conducted by the core project team, Tiina Kautio and Nathalie Lefever, between April and July 2013 and its results were first published in December 2013 on the website of Cupore.

*A handbook presenting the methodology framework is available on the website of Cupore at [www.cupore.fi](http://www.cupore.fi).*

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## Executive summary

This document presents data collected in application of a methodology framework to assess the operation of copyright and related rights systems. More precisely, the information and analysis below correspond to the second description sheet presented in the methodology handbook, titled “International and Regional Context”. The goal of this report is to provide a descriptive overview of the international copyright environment in order to support the analysis of the operation of the national copyright and related rights system. The country analyzed here is Finland.

Data has been collected concerning the issues presented in Description Sheet 2 of the methodology framework, i.e. the adherence of the country to treaties on copyright protection: the Berne Convention, the Universal Copyright Convention, the Rome Convention, the WIPO Copyright Treaty, the WIPO Performances and Phonograms Treaty, the Beijing Treaty on Audiovisual Performances, the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or Otherwise Print Disabled, the WTO/TRIPS Agreement, regional legislations, agreements and arrangements, as well as free trade agreements and economic partnership agreements. For each treaty, the date of adherence, the possible reservations made, the possible penalties for infringement considered or applied, as well as the national laws bringing the country’s legal system in concordance with the treaty, have been identified.

The Finnish treaty adherence process is dualist: after a treaty, convention or other international agreement has been signed, it requires an act by Parliament in order to be included in the Finnish legislation. In some cases, the national law will need to be brought in concordance with the new international obligations. As a result, signature of a treaty does not mean that the treaty has come into force. This always requires a specific national legislative instrument.

Finland has a history of international cooperation in the field of copyright. It has adhered to the Berne Convention and its revisions and amendments (since 1928), the Universal Copyright Convention (since 1963), the Rome Convention (since 1983), the World Copyright Treaty (since 2009), the WIPO Performances and Phonograms Treaty (since 2009) and the WTO/TRIPS Agreement (since 1995). Finland has made no or only minor reservations to these treaties and has not been subject to any penalty for infringement of their rules. Moreover, Finland has taken part in the drafting and signed the final acts of the Beijing Treaty on Audiovisual Performances in 2012 and the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled in 2013.

Finland is part of the European Union, which has enacted several directives in the field of copyright harmonization and enforcement. These directives require modifications in national laws of member states to be implemented. Finland has concluded bilateral agreements aiming at organizing reciprocal promotion of investments, in which intellectual property rights are considered as investments. Finland is also a party to a large number of free trade agreements concluded by the European Union, which include sections aiming at ensuring adequate and effective protection of intellectual property rights between the contracting parties.

To sum up, it can be said that Finland’s copyright system has a long history of international collaboration and is well integrated in its international environment.

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## Introduction

### ***A. CONTEXT OF THE PILOT STUDY***

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A methodology framework for assessing the operation of national copyright and related rights systems has been developed at the Foundation for cultural policy research (Cupore) in Finland. It is a collection of tools for achieving a systematic assessment of the functioning, performance and balanced operation of national copyright and related rights systems.

In the methodology, the assessment of the copyright and related rights system is determined through a framework consisting of so-called description sheets and methodology cards. The description sheets constitute guidelines to produce a comprehensive presentation and description of a country's copyright and related rights system and its operating environment. The methodology cards propose the collection of specific sets of data, either quantitative, descriptive or qualitative, that will be used as indicators of the functioning, performance and balanced operation of the system. Description sheets and methodology cards are accompanied by detailed information on the data to be collected, as well as analysis guidelines that will help connect them to each other.

The methodology framework is meant to be continuously improved through application feedbacks. For more information, see the Cupore website, [www.cupore.fi/copyright.php](http://www.cupore.fi/copyright.php).

This report presents data collected in application of Description sheet 2 of the methodology framework, titled "International and regional context". It is the result of the first pilot study applying this indicator in Finland.<sup>1</sup>

This study was conducted by the core project team, Tiina Kautio and Nathalie Lefever between April and July 2013.

### ***B. PRESENTATION OF THE INDICATOR***

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The indicator implemented here is intended to present the international and regional context of the copyright system. It is part of the first pillar of the methodology framework, "Copyright Environment", and its first area, "The Context in Which the Copyright System Operates". It is a description sheet which provides a descriptive overview of the international copyright environment in order to support the analysis of the operation of the national copyright and related rights system.

As explained in the methodology handbook, increasing global interdependency and integration of economies, interaction between cultures and the emerging new ways to share information globally require increasing international cooperation in policy and administrative structures.<sup>2</sup> The emergence of global value networks, distribution channels and consumer markets, as well as the growing number of micro-multinational companies, and the increasing sizes and geographic reach of multinational organizations may cause changes in the global balance of economic power and thus require adapted copyright policies. The government policies concerning economic openness and trade liberalization

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<sup>1</sup> The study was conducted based on the draft version of the Methodology Handbook, dated 19.7.2012. This report is modified from the original report to better correspond to the version of the Methodology Handbook dated 20.12.2013.

<sup>2</sup> According to the United Nations Conference on Trade and Development, the value of world exports of creative industry goods and services was \$592 billion in 2008. They also estimated that the annual growth rate in the exports of creative goods and services was 14 percent in the 2002-2008 period. (Creative Economy Report; Creative Economy: A Feasible Development Option, [http://www.unctad.org/en/docs/ditctab20103\\_en.pdf](http://www.unctad.org/en/docs/ditctab20103_en.pdf) UNCTAD (2010).); UNCTAD has launched a data dissemination platform UNCTADstat on 20 October 2010, <http://www.unctad.org/Templates/Page.asp?intItemID=1584&lang=1>. Visited on 26.4.2013.

might have a large effect on the operation of creative industries. Moreover, the emergence of trans-border piracy calls for international cooperation in countering it.

The growing economic interdependence of countries has shown needs for international harmonization of intellectual property rights. With different national copyright systems, copyright and related rights on the same work exist individually for each country. However, various international conventions have set minimum standards of protection to limit the conflicts created by these circumstances.

The copyright system has a strong international dimension. International treaties<sup>3</sup> are aimed at bringing a high level of harmonization across the world and providing a common platform that enables international trade in creative goods and services. While their purpose is to promote international trade by establishing common minimum rights for and non-discriminatory treatment of authors and other right holders, they are also designed to provide adequate policy space for governments to optimize the system from their domestic perspective. The more detailed and the stricter provisions of treaties are, the less they leave room for manoeuvre for policy making at country level.

#### **Box 1. The main international copyright instruments**

- Universal Copyright Convention, UNESCO, 1952<sup>4</sup>
- Berne Convention for the Protection of Literary and Artistic Works, 1886
- WIPO Copyright Treaty (WCT), 1996
- WIPO Performances and Phonograms Treaty (WPPT), 1996
- WIPO Beijing Treaty on Audiovisual Performances, 2012
- WIPO Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled <sup>5</sup>
- World Trade Organization's (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights, 1994 (TRIPS)<sup>6</sup>
- Rome convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, 1961

The background information for a thorough assessment of a national copyright system should include a description of the international cooperation through the ratification and application of key treaties. The way in which the key treaties are implemented in the national legislation, the reservations made in the application of the treaties, or the reasons why they have not been adhered to, constitute necessary information to provide an effective overview of the international cooperation of the copyright system.

According to the Vienna Convention on the Law of Treaties (1969), a treaty is *"an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation"*<sup>7</sup>. As a result, the international copyright instruments listed in Box 1 here-up can all be considered as treaties and will be qualified as such in this report. The term "treaty" also applies to bilateral agreements between states.

<sup>3</sup> Here the word treaty includes all are international agreements concerning the regulation of copyright and the application of copyright enforcement.

<sup>4</sup> The official text of Universal Copyright Convention can be found from the UNESCO website, [http://portal.unesco.org/en/ev.php-URL\\_ID=15381&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=15381&URL_DO=DO_TOPIC&URL_SECTION=201.html). Visited on 26.4.2013.

<sup>5</sup> Information on the WIPO-Administered international treaties (WCT, WPPT, Beijing Treaty on Audiovisual Performances, Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled, Berne Convention and Rome Convention) can be found from the WIPO website: <http://www.wipo.org/treaties>. Visited on 8.7.2013.

<sup>6</sup> The text of the agreement on Trade-Related Aspects of Intellectual Property Rights World Trade Organization's website: [http://www.wto.org/english/tratop\\_e/trips\\_e/t\\_agm0\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/t_agm0_e.htm). Visited on 26.4.2013.

<sup>7</sup> Article 2(1)(a).

However, this indicator includes “regional legislations, agreements and arrangements” which can be enacted by international organizations and are not treaties. They are included in this research because they represent bodies of rules which in some cases strongly influence the national legislation of states to which they apply. In the case of Finland, this category includes EU directives in the field of copyright and related rights. They are considered in this report only from the point of view of their timely and correct implementation; after the implementation the rules become national legislation which will be studied in the pilot report implementing *Description sheet 5 – Copyright law*.

A state can become part of a treaty by signature and ratification or by accession. “Ratification” is the act by which, following signature, a state expresses its consent to be bound by a treaty. “Accession” has the same effect as ratification but is not preceded by signature. “Adherence” is a generic term to express the fact that a state has consented to be bound by a treaty, whether by signature and ratification or by accession, and will be used most often in this report<sup>8</sup>.

Adherence to international treaties presumes amendments in national legislation. This information will shed light on the international orientation of a national copyright system, its compliance to international regulations and its cooperation with other national systems. The dates of ratification of the treaties will indicate the country’s history of international cooperation in the copyright field. International trade of copyright-based industries and the international aspect in copyright enforcement and management of rights are discussed later.

As presented in the Description sheet 2 of the methodology handbook, the following sets of data will give an overview of the international and regional context of national copyright systems:

Concerning the national treaty adherence process:

- Is the copyright system monist/monistic (treaties are considered self-executing) or dualist/dualistic (national laws are brought into concordance with the treaties)?
- In case of a dualist system: For each treaty ratified, please indicate the date when national laws were brought into concordance with the treaty.

Concerning the treaties and other international instruments listed here-under:

- The year of adherence to the treaties
- When the treaties have not been adhered to, the reasons for it
- Reservations<sup>9</sup> that have been made
- Penalties considered or applied for infringement of the treaties
- Possible issues not related to copyright preventing a country’s ratification of a treaty or the updating of agreements.

International and regional instruments to be considered:

International level:

- Adherence to the Berne convention
- Adherence to the Universal Copyright Convention
- Adherence to the Rome convention
- Adherence to the WCT treaty
- Adherence to the WPPT treaty
- Adherence to the Beijing Treaty on Audiovisual Performances

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<sup>8</sup> See the definitions of key terms relating to treaty adherence by The Geneva Academy of International Humanitarian Law and Human Rights on <http://www.geneva-academy.ch/RULAC/pdf/Key-definitions-relating-to-treaty-adherence.pdf> and Anthony Aust, “Modern Treaty Law and Practice”, second edition, Cambridge University Press, 2007.

<sup>9</sup> A reservation is a unilateral statement, however phrased or named, made by a state when consenting to be bound by a treaty by which it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that state. See Article 2(1)(b) of the Vienna Convention on the Law of Treaties (1969). See also Anthony Aust, “Modern Treaty Law and Practice”, second edition, Cambridge University Press, 2007, Chapter 8.

- Adherence to the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled
- Adherence to the WTO / TRIPS agreement<sup>10</sup>
- Copyright-related bilateral agreements, including Free Trade Agreements

Regional level:

- Copyright-related regional legislations, agreements and arrangements, including regional trade agreements

The description sheet presenting the indicator can be found in Appendix A of this report.

### ***C. METHODS***

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The information collected for this indicator was found through available national and international information sources. The method chosen was therefore desktop studies.

Lists of national and international information sources used for this report can be found in the appendices.

The data was complemented with the help of national copyright experts. A list of commentators can be found in the appendices.

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<sup>10</sup> The TRIPS Agreement is an integral part of the Marrakesh Agreement Establishing the World Trade Organization. It is contained in the Annex 1C of that agreement.

## Results

### SECTION 1. INTERNATIONAL LEVEL

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This section presents an overview of Finland's adherence to international treaties on copyright, including multilateral and bilateral agreements.

#### **A. THE FINNISH TREATY ADHERENCE PROCESS**

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Treaty adherence is the process of becoming a state party to a treaty. The process of adherence to an international treaty varies depending on national legal systems, which can be divided in two categories: monist and dualist. *"The essence of the monist approach is that a treaty may, without legislation, become part of domestic law once it has been concluded in accordance with the constitution and has entered into force for the state. When legislation is not needed such treaties are commonly described as 'self-executing'. (...) Under the dualist approach, the constitution of the state accords no special status to treaties; the rights and obligations created by them have no effect in domestic law unless legislation is in force to give effect to them. When the legislation is specifically made for this purpose, the rights and obligations are then said to be 'incorporated' into domestic law."*<sup>11</sup> As for the Finnish system, *"The Finnish law and practice on transforming regulations in international treaties into domestic law can perhaps best be characterized as dualistic with modifications."*<sup>12</sup>

In practice, the Finnish process of adherence to international treaties is two-stage: after a treaty, has been signed, it requires an act by the Parliament in order to be included in the Finnish legislation. This act can take the form of an Act for treaties of a legislative nature, and a Decree for others<sup>13</sup>. This procedure is described in the Finnish Constitution<sup>14</sup>:

#### **Section 94 - Acceptance of international obligations and their denouncement**

*The acceptance of the Parliament is required for such treaties and other international obligations that contain provisions of a legislative nature, are otherwise significant, or otherwise require approval by the Parliament under this Constitution. The acceptance of the Parliament is required also for the denouncement of such obligations.*

*A decision concerning the acceptance of an international obligation or the denouncement of it is made by a majority of the votes cast. However, if the proposal concerns the Constitution or an alteration of the national borders, or such transfer of authority to the European Union, an international organisation or an international body that is of significance with regard to Finland's sovereignty, the decision shall be made by at least two thirds of the votes cast.*

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<sup>11</sup> Anthony Aust, "Modern Treaty Law and Practice", second edition, Cambridge University Press, 2007, pages 183 and 187-188.

<sup>12</sup> Kimmo Nuotio, "Transforming International Law and Obligations into Finnish Criminal Legislation – Dragon's Eggs and Criminal Law Irritants" in Finnish Yearbook of International Law, Vol. X, 1999, p. 326-327.

<sup>13</sup> In Finnish legislation, an Act (Laki / Lag) "consists of a bill passed by the Finnish Parliament and approved by the President of the Republic. An act can be proposed by the Government, passed on to the President and then on to parliament for approval. An act can also originate in a bill proposed by a member of the parliament."

A Decree (Asetus / Förordning) "is hierarchically under an act and is issued by the President of the Republic (the chief of state), the Council of State, (consisting of the prime minister, the ministers for the various departments and the Chancellor of Justice), or a ministry as provided for in the Constitution or in another act."

(Source: N-Lex, gateway to national laws in the European Union, [http://eur-lex.europa.eu/n-lex/info/info\\_fi/index\\_en.htm](http://eur-lex.europa.eu/n-lex/info/info_fi/index_en.htm). Visited on 22.4.2013.)

<sup>14</sup> Source: English translation of the Finnish Constitution available at <http://www.finlex.fi/fi/laki/kaannokset/1999/en19990731.pdf>. Visited on 8.4.2013.

*An international obligation shall not endanger the democratic foundations of the Constitution.*

### **Section 95 - Bringing into force of international obligations**

*The provisions of treaties and other international obligations, in so far as they are of a legislative nature, are brought into force by an Act. Otherwise, international obligations are brought into force by a Decree.*

*A Government bill for the bringing into force of an international obligation is considered in accordance with the ordinary legislative procedure pertaining to an Act. However, if the proposal concerns the Constitution or a change to the national territory, or such transfer of authority to the European Union, an international organisation or an international body that is of significance with regard to Finland's sovereignty, the Parliament shall adopt it, without leaving it in abeyance, by a decision supported by at least two thirds of the votes cast.*

*An Act may state that for the bringing into force of an international obligation its entry into force is provided by a Decree. General provisions on the publication of treaties and other international obligations are laid down by an Act.*

In some cases, the national law will need to be brought in concordance with the new international obligations. When the ratification of an international agreement does not require changes in the existing legislation, it is incorporated into Finnish law by a special implementing instrument called blanket law<sup>15</sup>, i.e. enabling statute (or blanket decree<sup>16</sup>, enabling decree): a void act which gives the international obligations internal validity. With that act, the international agreement is brought into force, its obligations are binding on national authorities in the execution of their official duties, and citizens are able to institute legal proceedings on the grounds of such provisions.<sup>17</sup>

In summary, the process of adherence to international copyright treaties by Finland comprises the following sequential steps:

1. Signature of the treaty. Note that this step is omitted when a state "accedes" to an pre-existing treaty; accession has the same legal effect as ratification, but is not preceded by an act of signature.
2. Act by the Parliament incorporating the treaty into Finnish law and possible modifications of the existing legislation to bring it into concordance with the treaty's obligations.
3. Ratification of the treaty (or accession to the treaty).
4. Entry into force of the treaty.

The following instruments of the Finnish copyright law have implemented international obligations (some have been updated multiple times for that purpose):

- The Copyright Act ("tekijänoikeuslaki", act number 404/1961 and its modifications)<sup>18</sup>
- The Copyright Decree ("tekijänoikeusasetus", act number 574/1995 and its modifications)<sup>19</sup>
- Decree on the Application of the Copyright Act in Certain Cases to Protected Items Originating in States Belonging to the European Economic Area ("Asetus tekijänoikeuslain soveltamisesta eräissä

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<sup>15</sup> "blankettilaki" in Finnish

<sup>16</sup> "blankettiasetus" in Finnish

<sup>17</sup> For more information, see the definition of Dualism in Finland on the Eurofound website: <http://www.eurofound.europa.eu/emire/FINLAND/ANCHOR-DUALISMIDUALISM-FI.htm> (visited on 8.4.2013) and Kimmo Nuotio, "Transforming International Law and Obligations into Finnish Criminal Legislation – Dragon's Eggs and Criminal Law Irritants" in Finnish Yearbook of International Law, Vol. X, 1999, p. 327.

<sup>18</sup> Unofficial translation in English available at: <http://www.finlex.fi/en/laki/kaannokset/1961/en19610404.pdf>. Visited on 10.4.2013.

<sup>19</sup> Unofficial translation in English available at: <http://www.finlex.fi/en/laki/kaannokset/1995/19950574>. Visited on 10.4.2013.

- tapauksissa Euroopan talousalueeseen kuuluvista valtioista peräisin oleviin suojan kohteisiin”, act number 575/1995)<sup>20</sup>
- The Criminal Code, Chapter 49 (“Rikoslain, 49 luku”, act number 39/1889 modified by act 578/1995)<sup>21</sup>
  - Act concerning the safeguard of evidence in cases of intellectual property disputes (“Laki todistelun turvaamisesta teollis- ja tekijänoikeuksia koskevissa riita-asioissa”, act number 344/2000)<sup>22</sup>
  - Act on Provision of Information Society Services (“Laki tietoyhteiskunnan palvelujen tarjoamisesta”, act number 458/2002)<sup>23</sup>

## ***B. ADHERENCE TO THE BERNE CONVENTION***

The Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886<sup>24</sup> was the first international agreement to bring copyright rules across different countries into line. It requires its signatories to recognize the copyright of works of authors from other signatory countries in the same way as it recognizes the copyright of its own nationals, therefore establishing a system of equal treatment that internationalized copyright amongst signatories. The Convention also required member states to provide strong minimum standards for copyright law.

The Convention was completed at Paris on May 4, 1896, revised at Berlin on November 13, 1908, completed at Berne on March 20, 1914, revised at Rome on June 2, 1928, at Brussels on June 26, 1948, at Stockholm on July 14, 1967, and at Paris on July 24, 1971, and last amended on September 28, 1979<sup>25</sup>.

Finland acceded to the Convention on March 23, 1928 and has ratified all the consecutive versions of the text. The country’s dates of adherence to the following acts are summarized below<sup>26</sup>.

<b>Table 1. Adherence of Finland to the different versions of the Berne Convention</b>			
<b>Act</b>	<b>Signature</b>	<b>Instrument</b>	<b>Entry into force</b>
<b>Berlin Act (1908)</b>	-	Accession: March 23, 1928	April 1, 1928
<b>Berne Additional Protocol (1914)</b>	-	Accession: March 23, 1928	April 1, 1928
<b>Rome Act (1928)</b>	June 2, 1928	Ratification: July 1, 1931	August 1, 1931
<b>Brussels Act (1948)</b>	June 26, 1948	Accession: October 29, 1962	January 28, 1963
<b>Stockholm Act (1967) articles 22 – 38</b>	July 14, 1967	Ratification: June 8, 1970	September 15, 1970
<b>Paris Act (1971)</b>	January 25, 1972	Ratification: July 25, 1986	November 1, 1986

The latest version of the Berne Convention has been ratified in Act number 770/1986 of 11 July 1986<sup>27</sup>.

<sup>20</sup> Text in Finnish available at: <http://www.finlex.fi/fi/laki/alkup/1995/19950575>. Visited on 10.4.2013.

<sup>21</sup> Unofficial translation in English available at: <http://www.finlex.fi/en/laki/kaannokset/1889/18890039>. Visited on 10.4.2013.

<sup>22</sup> Text in Finnish available at: <http://www.finlex.fi/fi/laki/ajantasa/2000/20000344>. Visited on 10.4.2013.

<sup>23</sup> Unofficial translation in English available at: <http://www.finlex.fi/en/laki/kaannokset/2002/20020458>. Visited on 10.4.2013.

<sup>24</sup> The text of the Convention is available here: [http://www.wipo.int/treaties/en/ip/berne/trtdocs\\_wo001.html](http://www.wipo.int/treaties/en/ip/berne/trtdocs_wo001.html). Visited on 10.4.2013.

<sup>25</sup> For a summary on the evolution of the Berne Convention through its subsequent acts, read Knes, Michael, “The Berne Convention” on eNotes: <http://www.enotes.com/berne-convention-reference/berne-convention>. Visited on 10.4.2013.

<sup>26</sup> Source: WIPO - [http://www.wipo.int/treaties/en/remarks.jsp?cnty\\_id=951C](http://www.wipo.int/treaties/en/remarks.jsp?cnty_id=951C). Visited on 10.4.2013.

## ▪ RESERVATIONS

Finland's accession to the Berlin Act (1908) was subject to the following reservation: *Article 9 of the Act is replaced by Article 7 of the Berne Convention, 1886, as modified by Article 1, Number IV, of the Paris Additional Act, 1896, in respect to the production of articles published in newspapers or periodicals.*

This reservation concerns news reporting: in the original 1886 Berne Convention, article 7 sets out a mandatory presumptive royalty-free right to reproduce "*Articles from newspapers or periodicals ... in original or translation*" in "*any of the countries of the Union ... unless the authors or publishers have expressly forbidden it.*" The Paris Additional Act of 1896 amended article 7 to provide an exclusion for "*serial stories and tales.*"

### **1896 Amendment to Article 7**

*Serial stories, including tales, published in the newspapers or periodicals of one of the countries of the Union, may not be reproduced, in original or translation, in the other countries, without the sanction of the authors or of their lawful representatives.*

*This stipulation shall apply equally to other articles in newspapers or periodicals, when the authors or editors shall have expressly declared in the newspaper or periodical itself in which they shall have been published that reproduction is forbidden. In the case of periodicals it shall be sufficient if such prohibition is indicated in general terms at the beginning of each number. In the absence of prohibition, such articles may be reproduced on condition that the source is indicated.*

*The prohibition cannot in any case apply to articles of political discussion, to news of the day, or to miscellaneous information.*

Finland refused to ratify the 1908 revision of the Berne convention (i.e. Berlin Act) which slightly changed the terms of article 7 (becoming article 9) and removed the prohibition of copy on articles of political discussion.

### **1908 Berlin Act, Article 9**

*Serial stories, tales, and all other works, whether literary, scientific, or artistic, whatever their object, published in the newspapers or periodicals of one of the countries of the Union may not be reproduced in the other countries without the consent of the authors.*

*With the exception of serial stories and tales, any newspaper article may be reproduced by another newspaper unless the reproduction thereof is expressly forbidden. Nevertheless, the source must be indicated; the legal consequences of the breach of this obligation shall be determined by the laws of the country where protection is claimed.*

*The protection of the present Convention shall not apply to news of the day or to miscellaneous information which is simply of the nature of items of news.<sup>28</sup>*

## **C. ADHERENCE TO THE UNIVERSAL COPYRIGHT CONVENTION**

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The Universal Copyright Convention (or UCC) was adopted in Geneva in 1952 and revised in Paris, 24 July 1971 ("Paris text" or "UCC Paris")<sup>29</sup>. It was developed by the United Nations Educational, Scientific and Cultural

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<sup>27</sup> Text in Finnish available at: <http://www.finlex.fi/fi/laki/smur/1986/19860770>. Visited on 10.4.2013. Decree number 79/1986 published the text of the convention in its official translation in Finnish: <http://www.finlex.fi/fi/sopimukset/sopsteksti/1986/19860079>. Visited on 10.4.2013.

<sup>28</sup> Source: Love, James, "Berne Convention revisions, and the evolution of its limitations and exceptions to copyright" on Knowledge Economy International website: <http://keionline.org/BerneConvention>. Visited on 10.4.2013.

Organization (UNESCO) as an alternative to the Berne Convention for those states that did not agree with the extensive uniformization of intellectual property rights granted by the Berne Convention but which still wanted to participate in some level of international copyright protection. The Berne Convention states also became party to the UCC, so that their copyrights would exist in non-Berne convention states. The UCC has since been rendered obsolete by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) to which all UCC signatories are now conforming.

Finland ratified the original UCC (Geneva text) on 16 April 1963, and the revised version (Paris text) on 1<sup>st</sup> August 1986 (Finnish Act number 81/1986<sup>30</sup>; entry into force: 1<sup>st</sup> November 1986)<sup>31</sup>. No reservations were made.

#### ***D. ADHERENCE TO THE ROME CONVENTION***

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The Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations was signed by members of BIRPI, the predecessor to the modern World Intellectual Property Organization, on 26 October 1961<sup>32</sup>. It is the first agreement extending copyright protection to the creators and other owners of particular kinds of physical manifestations of intellectual property.

Finland first signed the Rome Convention on 21 June 1962, deposited the instrument of ratification on 21 July 1983 with effect from 21 October 1983<sup>33</sup>.

##### **▪ RESERVATIONS**

Upon ratification, Finland made some reservations to the Treaty (as authorized in the Treaty itself):

*With the following reservations in respect of articles 6, 16 and 17:*

*"1. With regard to article 6, paragraph 2:*

*Protection will be granted to broadcasting organisations only if their headquarters is situated in another Contracting State and if their broadcasts are transmitted from a transmitter situated in the same Contracting State.*

*2. With regard to article 16, paragraph 1 (a) (i):*

*The provisions of article 12 will not be applied with respect to phonograms acquired by a broadcasting organisation before 1 September 1961.*

*3. With regard to article 16, paragraph 1 (a) (ii):*

*The provisions of article 12 will be applied solely with respect to use for broadcasting.*

*4. With regard to article 16, paragraph 1 (a) (iv):*

*As regards phonograms first fixed in a other Contracting State, the protection provided for in article 12 will be limited to the extent to which, and to the term for which, the latter State grants protection to phonograms first fixed in Finland.*

*5. With regard to article 16, paragraph 1 (b):*

*The provisions of article 13 (d) will be applied only to the communication to the public of television broadcasts in a cinema or other similar place.*

*6. With regard to article 17:*

*Finland will apply, for the purposes of article 5, the criterion of fixation alone and, for the purposes of article 16, paragraph 1 (a) (iv), the criterion of fixation instead of the criterion of nationality."<sup>34</sup>*

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<sup>29</sup> Text available on the UNESCO website: [http://portal.unesco.org/en/ev.php-URL\\_ID=15241&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=15241&URL_DO=DO_TOPIC&URL_SECTION=201.html). Visited on 10.4.2013.

<sup>30</sup> The Act in Finnish is available at [http://www.finlex.fi/fi/sopimukset/sopsteksti/1986/19860081/19860081\\_1](http://www.finlex.fi/fi/sopimukset/sopsteksti/1986/19860081/19860081_1). Visited on 10.4.2013.

<sup>31</sup> Source: <http://www.unesco.org/eri/la/convention.asp?KO=15241&language=E&order=alpha>. Visited on 10.4.2013.

<sup>32</sup> The text of the Convention is available on the WIPO website: [http://www.wipo.int/treaties/en/ip/rome/trtdocs\\_wo024.html](http://www.wipo.int/treaties/en/ip/rome/trtdocs_wo024.html). Visited on 10.4.2013.

<sup>33</sup> Source: United Nations website, [http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsq\\_no=XIV-3&chapter=14&lang=en](http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsq_no=XIV-3&chapter=14&lang=en). Visited on 9.4.2013.

These limitations concerned the following articles of the Convention:

**Article 5 - Protected Phonograms: 1. Points of Attachment for Producers of Phonograms;(...)**

1. Each Contracting State shall grant national treatment to producers of phonograms if any of the following conditions is met:

- (a) the producer of the phonogram is a national of another Contracting State (criterion of nationality);
- (b) the first fixation of the sound was made in another Contracting State (criterion of fixation);
- (c) the phonogram was first published in another Contracting State (criterion of publication). (...)

**Article 6 - Protected Broadcasts: 1. Points of Attachment for Broadcasting Organizations; (...)**

1. Each Contracting State shall grant national treatment to broadcasting organisations if either of the following conditions is met:

- (a) the headquarters of the broadcasting organisation is situated in another Contracting State;
- (b) the broadcast was transmitted from a transmitter situated in another Contracting State.

2. By means of a notification deposited with the Secretary-General of the United Nations, any Contracting State may declare that it will protect broadcasts only if the headquarters of the broadcasting organization is situated in another Contracting State and the broadcast was transmitted from a transmitter situated in the same Contracting State. (...)

**Article 12 - Secondary Uses of Phonograms**

If a phonogram published for commercial purposes, or a reproduction of such phonogram, is used directly for broadcasting or for any communication to the public, a single equitable remuneration shall be paid by the user to the performers, or to the producers of the phonograms, or to both. Domestic law may, in the absence of agreement between these parties, lay down the conditions as to the sharing of this remuneration.

**Article 13 - Minimum Rights for Broadcasting Organizations**

Broadcasting organisations shall enjoy the right to authorize or prohibit:

(...)

(d) the communication to the public of their television broadcasts if such communication is made in places accessible to the public against payment of an entrance fee; it shall be a matter for the domestic law of the State where protection of this right is claimed to determine the conditions under which it may be exercised.

**Article 16 - Reservations**

1. Any State, upon becoming party to this Convention, shall be bound by all the obligations and shall enjoy all the benefits thereof. However, a State may at any time, in a notification deposited with the Secretary-General of the United Nations, declare that:

(a) as regards Article 12:

- (i) it will not apply the provisions of that Article;
- (ii) it will not apply the provisions of that Article in respect of certain uses;
- (iii) as regards phonograms the producer of which is not a national of another Contracting State, it will not apply that Article;
- (iv) as regards phonograms the producer of which is a national of another Contracting State, it will limit the protection provided for by that Article to the extent to which, and to the term for which, the latter State grants protection to phonograms first fixed by a national of the State making the declaration; however, the fact that the Contracting State of which the producer is a national does not grant the protection to the same beneficiary or beneficiaries as the State making the declaration shall not be considered as a difference in the extent of the protection;

(b) as regards Article 13, it will not apply item (d) of that Article; if a Contracting State makes such a declaration, the other Contracting States shall not be obliged to grant the right referred to in Article 13, item (d), to broadcasting organisations whose headquarters are in that State. (...)

These reservations therefore had the effect of:

1. Limiting the scope of protection to phonograms where "the first fixation of the sound was made in another Contracting State (criterion of fixation)", including in cases of secondary uses.

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<sup>34</sup> Source: United Nations, Treaty Series, vol. 1324, p. 380, available online at: <http://treaties.un.org/doc/publication/UNTS/Volume%201324/v1324.pdf>. Visited on 10.4.2013.

2. Limiting the scope of the protection of foreign broadcasts to broadcasters whose headquarters are located in the same contracting state as their source of transmission;
3. Limiting the scope of the remunerations due by broadcasters to performers and producers of phonograms in cases of secondary use (article 12) to:
  - a. phonograms acquired after 1 September 1961 and to phonograms that are broadcasted (and not to "any communication to the public")
  - b. the extent of protection (in this case, remuneration) granted to Finnish broadcasters in the state of the foreign broadcaster (reciprocal protection).
4. Limiting the right of broadcasting organizations to authorize or prohibit the communications to the public of their television broadcast to "cinemas and other similar places" (article 13).

Eleven years later, Finland decided to reduce the scope of the limitations previously declared:

*On 10 February 1994, the Government of Finland notified the Secretary-General of its decision to withdraw the reservations to article 6 (2) and 16 (1)(b), and to amend, reducing in scope, the reservation with regard to article 16 (1)(a)(ii) made upon ratification. For the text of the reservations made upon ratification, see United Nations, Treaty Series, vol. 1324, p. 380.<sup>35</sup>*

The result of these modifications is that the current reservations read as follows:

"1. (Removed)

2. Article 16, paragraph 1 (a) (i)

*The provisions of article 12 will not be applied with respect to phonograms acquired by a broadcasting organisation before 1 September 1961.*

3. Article 16, paragraph 1 (a) (ii)

*The provisions of article 12 will be applied solely with respect to broadcasting as well as to any other communication to the public which is carried out for profit-making purposes.*

4. Article 16, paragraph 1 (a) (iv)

*As regards phonograms first fixed in another Contracting State, the protection provided for in article 12 will be limited to the extent to which, and to the term for which, the latter State grants protection to phonograms first fixed in Finland.*

5. (Removed)

6. Article 17

*Finland will apply, for the purposes of article 5, the criterion of fixation alone and, for the purposes of article 16, paragraph 1 (a) (iv), the criterion of fixation instead of the criterion of nationality."<sup>36</sup>*

Therefore, since 1994, the Convention applies in Finland to broadcasters whose headquarters or source of transmission are located in contracting states (article 6), and the right of broadcasting organizations to authorize or prohibit the communications to the public of their television broadcast is now applicable to all "places accessible to the public against payment of an entrance fee" (article 13).

## ***E. ADHERENCE TO THE WIPO COPYRIGHT TREATY***

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The World Intellectual Property Organization Copyright Treaty, abbreviated as the WIPO Copyright Treaty or WCT, was adopted by the member states of the World Intellectual Property Organization (WIPO) in Geneva on 20 December 1996, and came into force on 6 March 2002<sup>37</sup>.

Finland signed the Treaty on May 9, 1997. The law incorporating it in the Finnish national legislation was signed on 14 October 2005<sup>38</sup>. The Treaty was formally ratified by Finland, together with the European

<sup>35</sup> Source: updated text of the Convention, section "Declarations and Reservations", available here: [http://portal.unesco.org/en/ev.php-URL\\_ID=13645&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13645&URL_DO=DO_TOPIC&URL_SECTION=201.html). Visited on 11.4.2013.

<sup>36</sup> Source: updated text of the Convention, section "Declarations and Reservations", available here: [http://portal.unesco.org/en/ev.php-URL\\_ID=13645&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13645&URL_DO=DO_TOPIC&URL_SECTION=201.html). Visited on 11.4.2013.

<sup>37</sup> Full text available on the WIPO website: [http://www.wipo.int/treaties/en/ip/wct/trtdocs\\_wo033.html](http://www.wipo.int/treaties/en/ip/wct/trtdocs_wo033.html). Visited on 10.4.2013.

Union and several individual Member States, on 14 December 2009<sup>39</sup>. It entered into force in Finland on 14 March 2010.

After the ratification of the Treaty by the European Union, specific European Union Directives covered the subject matter of the Treaty:

- Directive 91/250/EC - 2009/24/EC creating copyright protection for software ("Computer Programs Directive"), implemented in Finland by Laws numbers 418/93 and 419/93;
- Directive 96/9/EC on copyright protection for databases ("Database Directive"), and
- Directive 2001/29/EC prohibiting devices for circumventing "technical protection measures" such as digital rights management ("Copyright Directive"), implemented in Finland by law HE 28/2004.

#### ▪ RESERVATIONS

Article 22 of the Treaty states that "No reservation to this Treaty shall be admitted."

### **F. ADHERENCE TO THE WPPT TREATY**

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The WIPO Performances and Phonograms Treaty (or WPPT) is an international treaty signed by the member states of the World Intellectual Property Organization, which was adopted in Geneva on December 20, 1996 and came into force in 2002. This treaty does not disturb the existing obligations that contracting parties have to each other under the Rome Convention.

Finland signed the Treaty on 9 May 1997. The law incorporating it in the Finnish national legislation was signed on 14 October 2005<sup>40</sup>. The Treaty was formally ratified by Finland, together with the European Union and several individual Member States, on 14 December 2009, at the same time as the WTC. It entered into force in Finland on 14 March 2010.

#### ▪ RESERVATIONS

At the time of the Treaty's ratification, Finland declared the following reservations:

*"Pursuant to Article 3(3) of the Treaty the Republic of Finland avails itself of the possibilities provided in Article 17 of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention) and refers to the notification made at the time of ratification by Finland of the Rome Convention, stating that it will apply, for the purposes of Article 5 of the said Convention, the criterion of fixation alone and, for the purposes of Article 16, paragraph 1(a)(iv), the criterion of fixation instead of the criterion of nationality."*<sup>41</sup>

These reservations are the same limitations to the scope of the Treaty as those presented for the Rome Convention.

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<sup>38</sup> Law number 823/2005 – "Laki WIPO:n tekijänoikeussopimuksen lainsäädännön alaan kuuluvien määräysten voimaansaattamisesta". Text in Finnish available here: <http://www.eduskunta.fi/triphome/bin/vepssk.sh?{KIELI}=sd&{SAADK}=823/2005>. Visited on 9.4.2013.

<sup>39</sup> See WTC Notification No. 76: [http://www.wipo.int/treaties/en/notifications/wct/treaty\\_wct\\_76.html](http://www.wipo.int/treaties/en/notifications/wct/treaty_wct_76.html). Visited on 11.4.2013.

<sup>40</sup> Law number 824/2005 – "Laki WIPO:n esitys- ja äänitesopimuksen lainsäädännön alaan kuuluvien määräysten voimaansaattamisesta". Text in Finnish available here: <http://www.finlex.fi/fi/laki/alkup/2005/20050824>. Visited on 9.4.2013.

<sup>41</sup> Source: [http://www.wipo.int/wipolex/en/wipo\\_treaties/remarks.jsp?cnty\\_id=1543C](http://www.wipo.int/wipolex/en/wipo_treaties/remarks.jsp?cnty_id=1543C) and <http://www.minbuza.nl/en/key-topics/treaties/search-the-treaty-database/1996/12/007931.html?printpart=reservations>. Visited on 10.4.2013.

## ***G. ADHERENCE TO THE BEIJING TREATY ON AUDIOVISUAL PERFORMANCES***

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The Beijing Treaty on Audiovisual Performances is a multilateral treaty which regulates copyright for audiovisual performances and expands the performers' rights. It was adopted on 26 June 2012 by the Diplomatic Conference on the Protection of Audiovisual Performances of the World Intellectual Property Organization, in which 156 WIPO member states, six intergovernmental and six non-governmental organizations participated. Up to date, the treaty has been signed by 48 countries. The treaty will not enter into force until it has been ratified by at least 30 eligible parties.

Finland has signed the Final Act of the treaty in Beijing on June 26, 2012 and therefore has shown its willingness to ratify it in the future.<sup>42</sup> Finland will sign and ratify the treaty together with the other countries of the European Union. This process will start in 2013.<sup>43</sup>

## ***H. ADHERENCE TO THE MARRAKESH TREATY TO FACILITATE ACCESS TO PUBLISHED WORKS FOR PERSONS WHO ARE BLIND, VISUALLY IMPAIRED, OR OTHERWISE PRINT DISABLED***

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The Marrakesh Treaty is a multilateral treaty in the field of copyright to improve access to published works for persons who are blind, visually impaired, or otherwise print disabled. It was adopted on 27 June 2013 by the Diplomatic Conference to Conclude a Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities, with over 600 participants from the WIPO member states as well as intergovernmental and non-governmental organizations. The treaty was signed by 51 countries on the final day of the Diplomatic Conference (June 28th 2013). It will enter into force when it is ratified by 20 eligible parties.<sup>44</sup>

Finland has signed the Final Act of the treaty in Marrakesh on June 28, 2013 and therefore has shown its willingness to ratify it in the future.<sup>45</sup>

## ***I. ADHERENCE TO THE WTO / TRIPS AGREEMENT***

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The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) is an international agreement administered by the World Trade Organization (WTO) that sets down minimum standards for many forms of intellectual property regulation, including copyright. It was negotiated at the end of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) in 1994.

Ratification of TRIPS is a compulsory requirement of World Trade Organization membership, and as a result, TRIPS is the most important multilateral instrument for the globalization of intellectual property laws. Unlike other agreements on intellectual property, TRIPS has a powerful enforcement mechanism: the WTO's dispute settlement mechanism.

Finland has been a member of the WTO since 1 January 1995, and has therefore adhered to the TRIPS agreement on that date. The Finnish instrument incorporating the TRIPS and other WTO agreements in Finnish legislation specified that intellectual property rights related aspects of the trade agreement would apply from 1 January 1996 onwards<sup>46</sup>.

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<sup>42</sup> See the text of the Final Act at [http://www.wipo.int/edocs/mdocs/copyright/en/avp\\_dc/avp\\_dc\\_21.pdf](http://www.wipo.int/edocs/mdocs/copyright/en/avp_dc/avp_dc_21.pdf). Visited on 8.4.2013.

<sup>43</sup> Information provided by Anna Vuopala, Senior Advisor at the Ministry of Education and Culture (Interview on 15.4.2013).

<sup>44</sup> WIPO website, "Historic Treaty Adopted, Boosts Access to Books for Visually Impaired Persons Worldwide", [http://www.wipo.int/pressroom/en/articles/2013/article\\_0017.html](http://www.wipo.int/pressroom/en/articles/2013/article_0017.html). Visited on 9.7.2013.

<sup>45</sup> See the text of the Final Act at [http://www.wipo.int/edocs/mdocs/diplconf/en/vip\\_dc/vip\\_dc\\_11.pdf](http://www.wipo.int/edocs/mdocs/diplconf/en/vip_dc/vip_dc_11.pdf). Visited on 8.7.2013.

<sup>46</sup> Decree number 5/1995, "Asetus Maailman kauppajärjestön perustamissopimuksen ja sen liitesopimusten voimaansaattamisesta sekä näiden eräiden määräysten hyväksymisestä annetun lain voimaantulosta", available in Finnish here: <http://www.finlex.fi/fi/sopimukset/sopsteksti/1995/19950005#id1950882>. Visited on 11.4.2013.

## ▪ RESERVATIONS

Article 72 of the TRIPS agreement specifies that “Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Members.” Finland has therefore entered the agreement without reservations.

## ▪ PENALTIES CONSIDERED OR APPLIED FOR INFRINGEMENT OF THE TREATIES

When a party to the Treaty considers that another party violates the terms of the TRIPS, the matter is brought before the WTO's dispute settlement mechanism for a procedure that can lead, in case no satisfactory settlement is found, to an authorization to retaliate for the injured party. The European Union can be part to a dispute settlement procedure. Finland individually has not been part of any dispute related to copyright and related rights<sup>47</sup>.

## J. COPYRIGHT-RELATED BILATERAL AGREEMENTS

Finland has signed several free trade agreements<sup>48</sup> including copyright aspects. These include a series of bilateral agreements aiming at organizing a reciprocal promotion of investments. Among the types of investments covered by the agreements are always included “intellectual and industrial property rights, including copyrights, patents, trademarks, tradenames, technical processes, know-how, goodwill and other similar rights”. Here is a list of such agreements:

- *Agreement between the Government of the Republic of Costa Rica and the Government of the Republic of Finland for the Promotion and Protection of Investments*<sup>49</sup>  
Adopted on 28 November 2001 at San José (Treaty not yet in force)
- *Agreement between the Government of the Republic of Finland and the Government of the Republic of Armenia on the Promotion and Protection of Investments*<sup>50</sup>  
Adopted on October 5, 2004 at Yerevan  
Entry into force on April 20, 2007
- *Agreement between the Government of the Republic of Finland and the Government of the Republic of Albania on the Promotion and Protection of Investments*<sup>51</sup>  
Adopted on June 24, 1997 at Helsinki  
Entry into force on February 20, 1999
- *Agreement between the Government of the Republic of Finland and the Government of the Republic of Chile on the Promotion and Reciprocal Protection of Investments*<sup>52</sup>  
Adopted on May 27, 1993 at Helsinki  
Entry into force on June 14, 1996

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<sup>47</sup> See the Index of disputes issues on the WTO website:

[http://www.wto.int/english/tratop\\_e/dispu\\_e/dispu\\_subjects\\_index\\_e.htm#trips](http://www.wto.int/english/tratop_e/dispu_e/dispu_subjects_index_e.htm#trips). Visited on 11.4.2013.

<sup>48</sup> Free trade agreements (FTAs) are international agreements between two or more individual countries or country groupings to establish free trade relations and greater integration of economies by eliminating tariffs on trade and customs duties, by including rules for the transit of goods through customs as well as commitments on customs cooperation, and by other means to assist trade.

<sup>49</sup> Text available here: [http://www.wipo.int/wipolex/en/other\\_treaties/details.jsp?group\\_id=23&treaty\\_id=820](http://www.wipo.int/wipolex/en/other_treaties/details.jsp?group_id=23&treaty_id=820) (in Spanish only). Visited on 24.4.2013.

<sup>50</sup> Text available here: [http://www.wipo.int/wipolex/en/other\\_treaties/details.jsp?group\\_id=23&treaty\\_id=721](http://www.wipo.int/wipolex/en/other_treaties/details.jsp?group_id=23&treaty_id=721). Visited on 12.4.2013.

<sup>51</sup> Text available here: [http://www.wipo.int/wipolex/en/other\\_treaties/details.jsp?group\\_id=23&treaty\\_id=639](http://www.wipo.int/wipolex/en/other_treaties/details.jsp?group_id=23&treaty_id=639). Visited on 12.4.2013.

<sup>52</sup> Text available here: [http://www.wipo.int/wipolex/en/other\\_treaties/details.jsp?group\\_id=23&treaty\\_id=780](http://www.wipo.int/wipolex/en/other_treaties/details.jsp?group_id=23&treaty_id=780). Visited on 12.4.2013.

- *Agreement between the Government of the Republic of Finland and the Government of the Republic of Argentina on the Promotion and Reciprocal Protection of Investments*<sup>53</sup>  
Adopted on November 5, 1993 at Helsinki  
Entry into force on May 3, 1996

Finland is also bound by free trade agreements negotiated by the European Community (until the year 2009) or the European Union and signed both by the European Community/European Union and its Member States. These agreements usually include sections aiming at ensuring adequate and effective protection of intellectual property rights between the contracting parties, beyond the duties already contracted through international treaties. Here is a list of such agreements already in force:

- Free Trade Agreement with Mexico:  
Official title: "Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other Part"<sup>54</sup>  
Entry into force: October 2000  
Copyright-related aspects: in Article 12, "Intellectual, industrial and commercial property" and in Article 46, "Cultural cooperation".
- Free Trade Agreement with South Africa:  
Official title: "Agreement on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part"<sup>55</sup>  
Entry into force: 2000  
Copyright-related aspects: Article 46, "Intellectual property" and Article 85, "Culture".
- Free Trade Agreement with Colombia and Peru:  
Official title: Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part<sup>56</sup>  
Entry into force: 1 March 2013  
Copyright-related aspects: Title VII, "Intellectual property".
- Free Trade Agreement with Chile:  
Official title: Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part<sup>57</sup>  
Entry into force: February 2003  
Copyright-related aspects: Title VI "Intellectual property rights".

In addition to these Free Trade Agreements already in force, the EU has finished negotiating 9 trade agreements that have not yet entered into force and has a number of ongoing or forthcoming negotiations in the field. Moreover, Free Trade Agreements are a core component of many Association

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<sup>53</sup> Text available here: [http://www.wipo.int/wipolex/en/other\\_treaties/details.jsp?group\\_id=23&treaty\\_id=687](http://www.wipo.int/wipolex/en/other_treaties/details.jsp?group_id=23&treaty_id=687). Visited on 12.4.2013.

<sup>54</sup> Text available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:276:0045:0061:EN:PDF>. Visited on 24.4.2013.

<sup>55</sup> Text available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1999:311:0003:0297:EN:PDF>. Visited on 24.4.2013.

<sup>56</sup> The text of the agreement is available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:354:0003:2607:EN:PDF>. Visited on 25.4.2013.

<sup>57</sup> Text available here: <http://ec.europa.eu/world/agreements/downloadFile.do?fullText=yes&treatyTransId=879>. Visited on 24.4.2013.

Agreements<sup>58</sup> and Custom Unions concluded by the European Union with a number of countries in European, African, Caribbean, Southern Mediterranean and Pacific countries<sup>59</sup>.

## SECTION 2. REGIONAL LEVEL: EUROPEAN LEGISLATION ON COPYRIGHT

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Besides international agreements regulating copyright, regional legislation is analysed in order to provide a full picture of the Finnish copyright system's harmonization with copyright systems of other countries. This section includes copyright-related legislations, agreements and arrangements at a regional level. As explained earlier, this section does not enter into details of the legislations binding at a regional level but considers only their timely and correct implementation; after implementation the rules become national legislation which will be studied in the pilot report implementing *Description sheet 5 – Copyright law*.

Finland is part of the European Union and its economic area that aims at the free exchange of goods and services, including goods produced by copyright-based industries. Moreover, the European Union has implemented a wide uniformization of copyright laws across its Member States. For this purpose, the legal instrument used has been the Directive, which requires implementation by each Member State in their national legislation. Directives usually offer different options for implementation, which allow for some legal choices at national level. Each directive specifies the date by which the national laws must be adapted, and each Member State is required to notify its "national implementation measures", i.e. texts officially adopted by the authorities in a Member State to incorporate the provisions of a directive into national law.

Every two months the Commission verifies the measures taken by the authorities in each Member State to incorporate EU directives into their law. If the Commission finds that a Member State has failed to notify a measure implementing a directive, it can open an infringement case for "non-communication". "Non-conformity" cases are opened if shortcomings are identified in the transposition of a given directive in a Member State, and "bad application" cases address shortcomings in the application of the transposed provisions of a directive by a Member State.<sup>60</sup> Finland has not been the object of a referral to the Court of Justice for infringement concerning the implementation of any directive listed below.

The European directives dealing with issues of copyright are the following:

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<sup>58</sup> For example, the so-called Economic Partnership Agreements (EPAs) go beyond conventional free-trade agreements: They aim at promoting trade between the EU and African, Caribbean and Pacific (ACP) regions. They focus on the development of ACP countries, take into account their socio-economic circumstances and include co-operation and assistance in the implementation process (of EPAs). (Source: The European Commission website, [http://ec.europa.eu/trade/policy/countries-and-regions/development/economic-partnerships/index\\_en.htm](http://ec.europa.eu/trade/policy/countries-and-regions/development/economic-partnerships/index_en.htm). Visited on 24.4.2013.)

For more information on Economic Partnership Agreements, see a brochure "How economic partnership agreements benefit both consumers and producers in Europe and developing countries" at the European Commission website, [http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc\\_151010.pdf](http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_151010.pdf). Visited on 24.4.2013.)

<sup>59</sup> For more information, see the European Commission MEMO/13/282 of 25 March 2013, "The EU's free trade agreements – where are we?", available here: [http://trade.ec.europa.eu/doclib/docs/2012/november/tradoc\\_150129.pdf](http://trade.ec.europa.eu/doclib/docs/2012/november/tradoc_150129.pdf). Visited on 24.4.2013.

<sup>60</sup> Infringement cases start with a pre-litigation procedure in two steps: first the Member State receives a "letter of formal notice" in which the Commission requests it to submit its observations within a given time limit on an identified problem regarding the application of Community law. The second step of the pre-litigation procedure is the "reasoned opinion", whose purpose is to set out the Commission's position on the infringement and to determine the subject matter of any action, requesting the Member State to comply within a given time limit. Finally, referral by the Commission to the Court of Justice opens the litigation procedure.

The Commission does not publish data on letters of formal notice or reasoned opinions sent regarding a particular directive, but infringement decisions by the Court of Justice are public.

## **A. DIRECTIVE ON THE LEGAL PROTECTION OF COMPUTER PROGRAMS**

The *Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs*<sup>61</sup> was to be implemented by Member States before 1 January 1993<sup>62</sup>. In Finland, it was implemented by the end of the year 1993 using the following instruments<sup>63</sup>:

- Laki tekijänoikeuslain muuttamisesta  
Date: 07/05/1993  
Act number: 418/93  
Publication date<sup>64</sup>: 12/05/1993  
Entry into force: 01/01/1994
  
- Laki tekijänoikeuslain muuttamisesta annetun lain voimaantulosäännöksen muuttamisesta  
Date: 07/05/1993  
Act number: 419/93  
Publication date: 12/05/1993  
Entry into force: 01/01/1994
  
- Asetus eräistä kirjailijoille ja kääntäjille suoritettavista apurahoista ja avustuksista annetun lain 1 §:n, tekijänoikeuslain sekä tekijänoikeuslain muuttamisesta annetun lain voimaantulosäännöksen muuttamisesta annettujen lakien voimaanpanosta  
Date: 22/12/1993  
Act number: 1395/93  
Publication date: 28/12/1993  
Entry into force: 01/01/1994

## **B. DIRECTIVES ON RENTAL RIGHTS AND LENDING RIGHTS**

The uniformization of intellectual property aspects of rental rights and lending rights was made by *Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property*, which as modified several times:

- Council Directive 93/98/EEC (article 11(2) only) – deadline for implementation: 30 June 1995
- Directive 2001/29/EC of the European Parliament and of the Council (article 11(1) only) – the EU Copyright Directive (see below), which was to be implemented by 22 December 2002
- Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property<sup>65</sup>, the purpose of which was to codify the previous text and its modifications (which did not require implementation measures in Finland).

Directive 92/100/EEC was to be implemented by Member States by 1 July 1994, and was implemented in Finland by 1 January 2007 using the following instruments:

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<sup>61</sup> The text of the Directive is available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31991L0250:EN:HTML>. Visited on 11.4.2013.

<sup>62</sup> Article 10 of the Directive.

<sup>63</sup> Source: EUR-lex, the EU law online page's search engine: [http://ec.europa.eu/eu\\_law/directives/directives\\_transposition\\_en.htm](http://ec.europa.eu/eu_law/directives/directives_transposition_en.htm). All the Finnish implementation instruments of European Directives in this documents come from the same source. Visited on 12.4.2013.

<sup>64</sup> Here and in the following pages, "publication date" refers to the date of publication in the Finnish Official Journal: Suomen Säädoskokoelma (SK).

<sup>65</sup> The consolidated text is available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:376:0028:01:EN:HTML>. Visited on 11.4.2013.

- Laki tekijänoikeuslain muuttamisesta  
Date: 24/03/1995  
Act number: 446/95  
Publication date: 24/03/1995  
Entry into force: 01/05/1995
  
- Laki tekijänoikeuslain muuttamisesta  
Date: 31/10/1997  
Act number: 967/97  
Publication date: 5/11/1997  
Entry into force: 10/11/1997
  
- Laki tekijänoikeuslain muuttamisesta  
Date: 22/12/2006  
Act number: 1228/2006  
Publication date: 27/12/2006  
Entry into force: 01/01/2007

### ***C. DIRECTIVE ON SATELLITE BROADCASTING AND CABLE RETRANSMISSION***

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The *Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission*<sup>66</sup> was to be implemented by Member States by 1 March 1995<sup>67</sup>. It was implemented in Finland on 24 March 1995 by the following instrument:

- Laki tekijänoikeuksista annetun lain muuttamisesta  
Date: 24/03/1995  
Act number: 446/95  
Publication date: 30/03/1995  
Entry into force: 01/05/1995

### ***D. DIRECTIVE ON DATABASES***

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The *Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases*<sup>68</sup> was to be implemented by Member States by 1 January 1998<sup>69</sup>. It was fully implemented in Finland by the end of 2003 using the following instruments:

- Laki tekijänoikeuslain muuttamisesta  
Date: 03/04/1998  
Act number: 250/98  
Publication date: 03/04/1998  
Entry into force: 15/04/1998

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<sup>66</sup> The text of the Directive is available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31993L0083:EN:HTML>. Visited on 11.4.2013.

<sup>67</sup> Article 14 of the Directive.

<sup>68</sup> The text of the Directive is available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996L0009:EN:HTML>. Visited on 11.4.2013.

<sup>69</sup> Article 16 of the Directive.

- Laki rikoslain 49 luvun 1 §:n muuttamisesta  
Date: 03/04/1998  
Act number: 251/98  
Publication date: 03/04/1998  
Entry into force: 15/04/1998
- Valtioneuvoston asetus tietokantojen erityissuojan soveltamisesta Mansaaresta peräisin oleviin suojan kohteisiin  
Date: 22/10/2003  
Act number: 877/2003  
Publication date: 22/10/2003  
Entry into force: 01/11/2003

### ***E. THE EU COPYRIGHT DIRECTIVE***

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The Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (also called the Directive on copyright in information society)<sup>70</sup> is the most important Directive in the field of European harmonization of copyright.

This directive allowed only 19 months for implementation by Member States, the deadline being on 22 December 2002<sup>71</sup>. But controversy in many of the fifteen States meant that only Denmark and Greece met this deadline. Finland had fully implemented it by 1 January 2006.<sup>72</sup>

The Directive was implemented in Finland through the following instruments:

- Laki tekijänoikeuslain muuttamisesta  
Date: 14/10/2005  
Act number: 821/2005  
Publication date: 20/10/2005  
Entry into force: 01/01/2006
- Laki rikoslain 49 luvun muuttamisesta  
Date: 14/10/2005  
Act number: 822/2005  
Publication date: 20/10/2005  
Entry into force: 01/01/2006
- Valtioneuvoston asetus tekijänoikeusasetuksen muuttamisesta  
Date: 15/12/2005  
Act number: 1036/2005  
Publication date: 20/12/2005  
Entry into force: 01/01/2006

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<sup>70</sup> The text of the Directive is available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0029:EN:HTML>. Visited on 11.4.2013.

<sup>71</sup> Article 13 of the Directive.

<sup>72</sup> For detailed information on the implementation of this Directive in Finland, see the report by Ville Oksanen and Mikko Valimäki of Electronic Frontier Finland (EFFI) in the Foundation for Information Policy Research (FIPR) document "Implementing the EU Copyright Directive", p. 46, available at <http://www.fipr.org/copyright/guide/eucd-guide.pdf>. Visited on 12.4.2013.

## ***F. DIRECTIVE ON ARTISTS' RESALE RIGHT***

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The *Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art*<sup>73</sup> was to be implemented in Member States by 1 January 2006<sup>74</sup>. It was implemented in Finland by 1 June 2006 using the following instrument:

- Laki tekijänoikeuslain muuttamisesta  
Date: 05/05/2006  
Act number: 345/2006  
Publication date: 12/05/2006  
Entry into force: 01/06/2006

## ***G. DIRECTIVES ON THE TERM OF PROTECTION OF COPYRIGHT***

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Terms of protection of copyright were first harmonized in Europe through *Council Directive 93/98/EEC of 29 October 1993 harmonizing the term of protection of copyright and certain related rights*<sup>75</sup>, which had to be implemented by 1 July 1995. It was implemented in Finland through the following instrument:

- Laki tekijänoikeuslain muuttamisesta  
Date: 22/12/1995  
Act number: 1654/95  
Publication date: 28/12/1995  
Entry into force: 01/01/1996.

This directive was later substantially modified by the EU Copyright Directive (2001/29/EC, see above). As a result, it was decided that, in the interests of clarity and rationality, the Directive on term of protection of copyright should be codified. This was done through *Directive 2006/116/EC on the term of protection of copyright and certain related rights*<sup>76</sup>, for which no new amendment in Finnish legislation was necessary.

This new directive was again modified by *Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011*<sup>77</sup>. The deadline for implementation is 1 November 2013, and the implementation process is currently ongoing in Finland.

## ***H. DIRECTIVE ON ORPHAN WORKS***

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The *Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works*<sup>78</sup> is to be implemented by Member States by 29 October 2014<sup>79</sup>. It has not yet been implemented in Finland.

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<sup>73</sup> The text of the Directive is available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0084:EN:HTML>. Visited on 11.4.2013.

<sup>74</sup> Article 12 of the Directive.

<sup>75</sup> The text of the Directive is available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31993L0098:en:NOT>. Visited on 25.4.2013.

<sup>76</sup> The text of the Directive is available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006L0116:en:NOT>. Visited on 25.4.2013.

<sup>77</sup> The text of the Directive is available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011L0077:en:NOT>. Visited on 25.4.2013.

## **I. DIRECTIVE ON THE ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS**

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In addition to harmonising copyright statutes, the EU has adopted *Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights*<sup>80</sup>. The Directive was to be implemented by Member States by 29 April 2006<sup>81</sup>. It was implemented in Finland on 1 September 2006 using the following instruments:

- Laki toiminimilain muuttamisesta  
Date: 21/07/2006  
Act number: 682/2006  
Publication date: 04/08/2006  
Entry into force: 01/09/2006
  
- Laki hyödyllisyysmallioikeudesta annetun lain muuttamisesta  
Date: 21/07/2006  
Act number: 686/2006  
Publication date: 04/08/2006  
Entry into force: 01/09/2006
  
- Laki todistelun turvaamisesta teollis- ja tekijänoikeuksia koskevissa riita-asioissa annetun lain muuttamisesta  
Date: 21/07/2006  
Act number: 678/2006  
Publication date: 04/08/2006  
Entry into force: 01/09/2006
  
- Laki tekijänoikeuslain muuttamisesta  
Date: 21/07/2006  
Act number: 679/2006  
Publication date: 04/08/2006  
Entry into force: 01/09/2006
  
- Laki tavaramerkkilain muuttamisesta  
Date: 21/07/2006  
Act number: 680/2006  
Publication date: 04/08/2006  
Entry into force: 01/09/2006
  
- Laki yksinoikeudesta integroidun piirin piirimalliin annetun lain muuttamisesta  
Date: 21/07/2006  
Act number: 681/2006  
Publication date: 04/08/2006  
Entry into force: 01/09/2006
  
- Laki kasvinjalostajanoikeudesta annetun lain muuttamisesta  
Date: 21/07/2006

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<sup>78</sup> The text of the Directive is available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:299:0005:01:EN:HTML>. Visited on 11.4.2013.

<sup>79</sup> Article 9 of the Directive.

<sup>80</sup> The text of the Directive is available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0048R%2801%29:EN:HTML>. Visited on 11.4.2013.

<sup>81</sup> Article 20 of the Directive.

Act number: 683/2006  
Publication date: 04/08/2006  
Entry into force: 01/09/2006

- Laki patenttilain muuttamisesta  
Date: 21/07/2006  
Act number: 684/2006  
Publication date: 04/08/2006  
Entry into force: 01/09/2006
  
- Laki mallioikeuslain muuttamisesta  
Date: 21/07/2006  
Act number: 685/2006  
Publication date: 04/08/2006  
Entry into force: 01/09/2006

#### ***J. DIRECTIVE ON THE RE-USE OF PUBLIC INFORMATION***

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*Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information*<sup>82</sup> aims at establishing a minimum set of rules governing the re-use and the practical means of facilitating re-use of existing documents held by public sector bodies of the Member States. This directive's preambles expressly declare that "the intellectual property rights of third parties are not affected by this Directive", but also that "public sector bodies should, however, exercise their copyright in a way that facilitates re-use." The text itself does not directly address aspects of intellectual property rights.

The deadline for transposition of this directive was 1 July 1995. It was implemented in Finland by 1 December 1999 using the following acts:

- Självstyrelselag för Åland  
Date: 16/08/1991  
Act number 71/1991  
Publication date: 16/08/1991  
Entry into force: 01/01/1993
  
- Valtion maksuperustelaki  
Date: 21/02/1992  
Act number: 150/1992  
Publication date: 21/02/1992  
Entry into force: 01/03/1992
  
- Laki viranomaisten toiminnan julkisuudesta  
Date: 21/05/1999  
Act number: 621/1999  
Publication date: 31/05/1999  
Entry into force: 1/12/1999

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<sup>82</sup>The text of the Directive is available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0098:en:NOT>.  
Visited on 26.4.2013.

## Conclusions

### A. ANALYSIS AND SUMMARY OF THE RESULTS

#### ▪ THE FINNISH TREATY ADHERENCE PROCESS

The Finnish treaty adherence process is dualist: after a treaty, convention or other international agreement has been signed, it requires an act by the Parliament in order to be included in the Finnish legislation. In some cases, the national law will need to be brought in concordance with the new international obligations. As a result, signature of a Treaty does not mean that the treaty has come into force. This always requires a specific national legislative instrument.

#### ▪ INTERNATIONAL COPYRIGHT TREATIES

Finland has a history of international cooperation in the field of copyright. It has adhered to the Berne Convention and its revisions and amendments (since 1928), the Universal Copyright Convention (since 1963), the Rome Convention (since 1983), the World Copyright Treaty (since 2009), the WIPO Performances and Phonograms Treaty (since 2009) and the WTO/TRIPS Agreement (since 1995). It has taken part in the drafting and signed the final acts of the Beijing Treaty on Audiovisual Performances (in 2012) and the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled. Signing and ratifying the Beijing and Marrakesh treaties will be made together with the other countries of the European Union.

To these Treaties, Finland has no or only minor reservations. Concerning the Berne Convention, Finland has rejected the 1908 revision which removed the prohibition of copy of articles of political discussion. In the field of protection of phonograms (Rome Convention), Finland uses the criterion of fixation (the place where the first fixation of the sound was made) in order to determine the applicability of the Rome Convention. Concerning the remunerations due by broadcasters to performers and producers of phonograms in cases of secondary use, it is limited by the principal of reciprocity. Finland has not been the subject of any penalty for infringement of the treaties.

**Table 2. Adherence of Finland to international copyright treaties**

Act	Signature	Adherence	Reservations
<b>Berne Convention (1886)</b>			
- Berlin Act (1908)	-	Accession: 1928	Yes
- Berne Additional Protocol (1914)	-	Accession: 1928	No
- Rome Act (1928)	1928	Ratification: 1931	No
- Brussels Act (1948)	1948	Accession: 1962 <sup>83</sup>	No
- Stockholm Act (1967)	1967	Ratification: 1970	No
- Paris Act (1971)	1972	Ratification: 1986	No
<b>Universal Copyright Convention</b>			
- Geneva text (1952)	-	Ratification: 1963	No
- Paris text (1971)	-	Ratification: 1986	No
<b>Rome Convention (1961)</b>	1962	Ratification: 1983	Yes
<b>WIPO Copyright Treaty (1996)</b>	1997	Ratification: 2009	No
<b>WPPT Treaty (1996)</b>	1997	Ratification: 2009	No

<sup>83</sup> The WIPO database does not provide any explanation on the reason why this treaty has been the subject of accession following signature by Finland. See [http://www.wipo.int/treaties/en/remarks.jsp?cnty\\_id=951C](http://www.wipo.int/treaties/en/remarks.jsp?cnty_id=951C). Visited on 26.4.2013.

<b>Beijing Treaty on Audiovisual Performances (2012)</b>	-	Not ratified	
<b>Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled (2013)</b>	-	Not ratified	
<b>WTO/TRIPS Agreement (1994)</b>	1995	1995	No

#### ▪ BILATERAL AGREEMENTS

The only bilateral agreements concerning copyright signed by Finland separately from the European Union aim at organizing reciprocal protection and promotion of investments. These agreements with Costa Rica, Armenia, Albania, Chile and Argentina consider intellectual property rights as one type of investments.

In addition, Finland is also bound by bilateral free trades agreements with Peru and Colombia, South Korea, Mexico and South Africa negotiated by the European Community or the European Union. These agreements usually include sections aiming at ensuring adequate and effective protection of intellectual property rights between the contracting parties, beyond the duties already contracted through international treaties. Together with the Association Agreements and Custom Unions to which the EU and its Member States are part and which include free trade components, 28 trade agreements are already in force, with several more yet to come into force or subject to ongoing or forthcoming negotiations.

#### ▪ REGIONAL LEVEL

Finland is part of the European Union which has enacted several Directives in the field of copyright law harmonization and copyright enforcement. To be implemented, these Directives usually require modifications in national laws of Member States. Except for the most recent Directives on term of protection and orphan works, which have been finalized only recently, Finland has duly implemented every Directive. The implementation was always completed after the deadline decided by the European Union, but the fact that no litigation procedure in front of the European Court of Justice lead to a judgement against Finland indicates that these delays were never considered as excessive.

**Table 3. Implementation in Finland of European Directives concerning copyright**

<b>European Union Directive</b>	<b>Deadline for implementation</b>	<b>Date of complete implementation in Finland</b>
Directive on the legal protection of computer programs (14 May 1991)	1 January 1993	22 December 1993
Directives on rental rights and lending rights (19 November 1992 to 12 December 2006)	1 July 1995	1 January 2007
Directive on satellite broadcasting and cable retransmission (27 September 1993)	1 March 1995	24 March 1995
Directive on databases (11 March 1996)	1 January 1998	22 October 2003
EU Copyright Directive (22 May 2001)	22 December 2002	1 January 2006
Directive on artists' resale right (27 September 2001)	1 January 2006	1 June 2006

Directive on the term of protection of copyright: - first version (29 October 1993) - latest version (27 September 2011)	1 July 1995 1 November 2013	1 January 1996 -
Directive on orphan works (25 October 2012)	29 October 2014	-
Directive on the enforcement of intellectual property rights (29 April 2004)	29 April 2006	1 September 2006
Directive on the re-use of public information (17 November 2003)	1 July 1995	1 December 1999

In conclusion, Finland's copyright system has a long history of international collaboration. Since 1928, Finland has ratified all important international treaties on copyright, ensuring that Finnish works would be protected internationally. Its participation in the European Union has further harmonized the Finnish copyright system with other European systems. As the result, the Finnish copyright system can be considered as well integrated in its international environment.

## ***B. METHODOLOGICAL FINDINGS***

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### **▪ LIMITATIONS**

In order to provide a detailed picture of the international cooperation of a country in the field of copyright, it is most interesting to thoroughly analyze its legislative process leading to ratification and the political discussions that resulted in possible reservations or delays in the implementation of the treaties. However, this information is sometimes difficult to find, especially regarding older treaties. As a result, it is not always possible, as required by the Description sheet, to "analyze the data taking into consideration possible issues not related to copyright preventing a country's ratification of a treaty or the updating of agreements".

### **▪ GUIDELINES FOR FUTURE RESEARCH**

Most of the raw data can be found in the legislative databases of the country or in the databanks kept by international organizations. However, understanding the sometimes complex legislative processes might require some previous legal skills.

Since the methodology is designed to be internationally implemented, it is important to use sources which are official or widely recognized. All sources should be listed and, as much as possible, widely available for consultation by international researchers.

The time needed for this pilot study will depend for each country on the availability of data and the extent of the country's history in international copyright collaboration. The task consists mainly in gathering information; relatively little analysis is necessary. In the case of Finland, where most of the data was easily accessible, the workload for collecting data and drafting this report could be evaluated at 2 weeks of full-time work. With the help of an already-made list of useful references, this time could be reduced.

## Appendices

### A. DESCRIPTION SHEET

Description sheet as presented in the Methodology Handbook, version 20.12.2013.

Description sheet 1. International and regional context	
<p>Description of the international and regional context of the copyright system; Consider the adherence to treaties and other international instruments dealing with copyright protection, as well as regional-level legislation, agreements and arrangements:</p> <p>Concerning the national treaty adherence process:</p> <ul style="list-style-type: none"> <li>- Is the copyright system monist/monistic or dualist/dualistic?</li> <li>- In case of a dualist system: For each treaty ratified, please indicate the date when national laws were brought into concordance with the treaty.</li> </ul> <p>Concerning the treaties and other international instruments listed here-under:</p> <ul style="list-style-type: none"> <li>- The year of adherence to the treaties</li> <li>- When the treaties have not been adhered to, the reasons for it</li> <li>- Reservations and declarations that have been made</li> <li>- Actions considered or penalties applied for infringement</li> <li>- Possible issues not related to copyright preventing a country's ratification of a treaty or the updating of agreements</li> </ul> <p>International and regional instruments to be considered:</p> <p><u>International level:</u></p> <ul style="list-style-type: none"> <li>- Berne convention</li> <li>- Buenos Aires Convention</li> <li>- Universal Copyright Convention</li> <li>- Rome convention</li> <li>- WTO / TRIPS agreement <sup>84</sup></li> <li>- WCT treaty</li> <li>- WPPT treaty</li> <li>- Beijing Treaty on Audiovisual Performances</li> <li>- Marrakesh VIP Treaty</li> <li>- Copyright-related bilateral agreements, including Free Trade Agreements</li> </ul> <p>Other treaties to be considered (if relevant):</p> <ul style="list-style-type: none"> <li>- Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms</li> <li>- Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite</li> <li>- Washington Treaty on Intellectual Property in Respect of Integrated Circuits</li> </ul> <p><u>Regional level:</u></p> <ul style="list-style-type: none"> <li>- Copyright-related regional legislations,</li> <li>- Regional agreements and arrangements (for example regional trade agreements) including copyright aspects</li> </ul>	
Guidelines for data collection	<p>The information collected for this indicator can be found through available databases.<sup>85</sup> Wherever available data does not exist, or in the cases where such data is not easy to interpret, it might be useful to conduct expert interviews.</p> <p>A list of international sources of information can be found in Appendix 5.</p>

<sup>84</sup> The TRIPS Agreement is an integral part of the Marrakesh Agreement Establishing the World Trade Organization. It is contained in the Annex 1C of that agreement.

Definitions	<i>Treaty</i>	
	<i>Treaty adherence</i>	<i>a generic term to express the fact that a state consents to be bound by a treaty, whether by signature and ratification or by accession, and will be used most often in this report</i>
	<i>Ratification</i>	<i>the act by which, following signature, a state expresses its consent to be bound by a treaty</i>
	<i>Accession</i>	<i>has the same effect as ratification but is not preceded by signature</i>
	<i>Reservations to a treaty</i>	<i>unilateral statement, however phrased or named, made by a state when consenting to be bound by a treaty by which it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that state.<sup>86</sup></i>
	<i>Declaration to a treaty</i>	<i>Some treaties allow optional or mandatory declarations by which member states may limit their interpretations of the treaty's rules; it is for example the case in the Rome Convention (see article 6(2)).</i>
	<i>Monist/monistic</i>	<i>treaties are considered self-executing</i>
	<i>Dualist/dualistic</i>	<i>national laws are brought into concordance with the treaties</i>
Limitations of the indicator	It is not always possible, especially concerning older treaties, to find information concerning the legislative process leading to ratification and the political discussions that resulted in possible reservations and delays in the implementation of the treaties.	

## **B. INFORMATION SOURCES**

### **International:**

- **Council of Europe**
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  - Search Engine on the transposition of EU Directives: [http://ec.europa.eu/eu\\_law/directives/directives\\_transposition\\_en.htm](http://ec.europa.eu/eu_law/directives/directives_transposition_en.htm)
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  - European commission, DG Internal Market and Services, [http://ec.europa.eu/internal\\_market/copyright/index\\_en.htm](http://ec.europa.eu/internal_market/copyright/index_en.htm), [http://ec.europa.eu/internal\\_market/top\\_layer/index\\_52\\_en.htm](http://ec.europa.eu/internal_market/top_layer/index_52_en.htm) (Internal Market > Protection of rights (Copyright / Industrial property))
  - European commission, DG Enterprise and Industry

<sup>85</sup> Most of the raw data can be found in the legislative databases of the country or in the databases kept by international organizations. The time needed for studying these issues on a country level will depend on the availability of data and the extent of the country's history in international copyright collaboration.

<sup>86</sup> See Article 2(1)(b) of the Vienna Convention on the Law of Treaties (1969). See also Anthony Aust, "Modern Treaty Law and Practice", second edition, Cambridge University Press, 2007, Chapter 8.

- Information on economic partnerships on the European Commission website:  
[http://ec.europa.eu/trade/policy/countries-and-regions/development/economic-partnerships/index\\_en.htm](http://ec.europa.eu/trade/policy/countries-and-regions/development/economic-partnerships/index_en.htm)
- Brochure “How economic partnership agreements benefit both consumers and producers in Europe and developing countries” available on the European Commission website,  
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- **OECD**

- Innovation and Growth - Rationale for an Innovation Strategy. OECD (Organisation for Economic Co-Operation and Development), 2007. <http://www.oecd.org/dataoecd/2/31/39374789.pdf>
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- **United Nations**

- Information on the Rome Convention’s ratification status:  
[http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XIV-3&chapter=14&lang=en](http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XIV-3&chapter=14&lang=en)
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- **United Nations Conference on Trade and Development (UNCTAD)**

- Creative Economy Report; Creative Economy: A Feasible Development Option,  
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- Data dissemination platform UNCTADstat,  
<http://www.unctad.org/Templates/Page.asp?intItemID=1584&lang=1>

- **United Nations Educational, Scientific and Cultural Organization (UNESCO)**

- The Universal Copyright Convention: [http://portal.unesco.org/en/ev.php-URL\\_ID=15241&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=15241&URL_DO=DO_TOPIC&URL_SECTION=201.html)
- Information on the UCC application in Finland:  
<http://www.unesco.org/eri/la/convention.asp?KO=15241&language=E&order=alpha>
- Updated text of the Rome Convention, section “Declarations and Reservations”, available here:  
[http://portal.unesco.org/en/ev.php-URL\\_ID=13645&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13645&URL_DO=DO_TOPIC&URL_SECTION=201.html)

- **World Intellectual Property Organization (WIPO):**

- List of WIPO member states: <http://www.wipo.int/members/en/>
- Information on membership of the different WIPO treaties; national IP legislation; contact details of IP Offices; country profile, and more: <http://www.wipo.org/treaties>
- Text of the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886: [http://www.wipo.int/treaties/en/ip/berne/trtdocs\\_wo001.html](http://www.wipo.int/treaties/en/ip/berne/trtdocs_wo001.html)
- Text of the Rome Convention: [http://www.wipo.int/treaties/en/ip/rome/trtdocs\\_wo024.html](http://www.wipo.int/treaties/en/ip/rome/trtdocs_wo024.html)
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- Final Act of the Beijing Treaty:  
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[http://www.wipo.int/pressroom/en/articles/2013/article\\_0017.html](http://www.wipo.int/pressroom/en/articles/2013/article_0017.html)

- **World Trade Organization (WTO)**

- Agreement on Trade-related Aspects of Intellectual Property Rights TRIPS,  
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- Index of disputes issues concerning TRIPS:  
[http://www.wto.int/english/tratop\\_e/dispu\\_e/dispu\\_subjects\\_index\\_e.htm#trips](http://www.wto.int/english/tratop_e/dispu_e/dispu_subjects_index_e.htm#trips)

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- Finnish Copyright Act, text in English: <http://www.finlex.fi/en/laki/kaannokset/1961/en19610404.pdf>
- Finnish Copyright Decree, text in English: <http://www.finlex.fi/en/laki/kaannokset/1995/19950574>
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- Act concerning the safeguard of evidence in cases of intellectual property disputes, text in Finnish:  
<http://www.finlex.fi/fi/laki/ajantasa/2000/20000344>
- Act on Provision of Information Society Services, text en English:  
<http://www.finlex.fi/en/laki/kaannokset/2002/20020458>
- The Berne Convention in Finnish: <http://www.finlex.fi/fi/sopimukset/sopsteksti/1986/19860079>
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**C. CONSULTED PARTIES**

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- Anna Vuopala, Senior Advisor at the Ministry of Education and Culture (Consulted on 15.4.2013)
- Jukka Liedes, Director at the Ministry of Education and Culture (Consulted on 23.4.2013)
- Jorma Waldén, Counsellor of Government at the Ministry of Education and Culture (Consulted on 24.4.2013)
- Mary-Anne Nojonen, Commercial Counsellor at the Ministry of Foreign Affairs (Consulted on 23.4.2013)



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