

RELEVANT PROVISIONS OF THE PENAL CODE

THE PENAL CODE OF THE REPUBLIC OF MONTENEGRO¹

CRIMINAL OFFENCES AGAINST INTELLECTUAL PROPERTY RIGHTS

Infringement of the Author's and Performer's Moral Rights Article 233

- (1) Any person who under his name or any other name, in whole or in part, publicizes, places into circulation copies of another person's copyrighted work or performance, or in any other way publicly communicates, another person's copyrighted work or performance,

shall be fined or sentenced to imprisonment of up to one year.
- (2) Any person who alters or modifies another person's copyrighted work or recorded performance without the permission of the author or performer,

shall be fined or sentenced to imprisonment of up to one year.
- (3) Any person who places into circulation copies of another person's copyrighted work or performance in any way that compromises the author's or performer's honor or reputation,

shall be fined or sentenced to imprisonment of up to six months.
- (4) The objects of the offenses and any devices used or intended to be used to commit the offenses referred to in paragraphs 1-3 of this Article shall be forfeited, and the objects of the offence shall be destroyed.
- (5) Prosecution related to criminal offenses referred to in paragraph 3 of this Article shall be undertaken upon the criminal complaint filed by the author or performer.

Unauthorized Use of Copyrighted Work or the Subject of a Related Right Article 234

- (1) Any person who without authorization, in whole or in part, publicizes, records, reproduces or publicly communicates or renders available to the public a copyrighted work or performance, phonogram, videogram, broadcast, computer program or a database,

shall be sentenced to up to three years of imprisonment.

¹ Amendments published in RM Official Gazette No. 47, on July 25, 2006. Effective as of August 3, 2006.

- (2) Any person who places into circulation or, with the intent to place them into circulation, holds in possession copies of copyrighted works, performance, phonogram, videogram, broadcast, computer program or a database duplicated or placed into circulation without the authorization, shall be penalized by a sentence referred to in paragraph 1 of this Article.
- (3) Any person committing the offense referred to in paragraphs 1 and 2 of this Article with the intent to acquire economic gain for himself or any other person,

shall be sentenced to minimum of three months to maximum five years of imprisonment.

- (4) The objects of the offenses and any devices used or intended to be used to commit the offences referred to in paragraphs 1 and 2 of this Article shall be forfeited, and the objects of the offence shall be destroyed.

**Unauthorized Circumvention of Measures Intended to Prevent
Infringement of Copyright and Related Rights
and an Information on Right
Article 235**

- (1) Any person who without authorization produces, imports, places into circulation, sells, advertises or holds in possession any devices or means primarily intended for removal, circumvention, or impediment technological measures whose purpose is to prevent infringement of a copyright or related right, or any person who uses such devices and means to infringe a copyright or related right,

shall be fined or sentenced to imprisonment of up to three years.

- (2) The objects of the offense and any devices used or intended to be used to commit the offence referred to in paragraph 1 of this Article shall be forfeited, and the objects of the offence shall be destroyed.

**Unauthorized Removal or Alternation of the Electronic Information
on Copyright and Related Rights
Article 236**

- (1) Any person who, without authorization, removes or alters electronic information on copyright and related rights, or a person who places into circulation, imports, broadcasts or publicizes or renders available a copyrighted work or a subject of the related right where the information on rights has been removed or altered without authorization,

shall be fined or sentenced to up to three years of imprisonment.

- (2) The objects of the offense and any devices used or intended to be used to commit the offence referred to in paragraph 1 of this Article shall be forfeited, and the objects of the offence shall be destroyed.

Unauthorized Use of Another Person's Patent
Article 237

- (1) Any person who without authorization manufactures, imports, exports, offers to place into circulation, places into circulation, stores or uses for commercial purposes a product or a procedure under the patent protection,

shall be fined or sentenced to up to three years of imprisonment.
- (2) Where by committing an offense referred to in paragraph 1 of this Article, a financial gain has been acquired or a damage has been caused in the amount exceeding €thirty thousand,

the perpetrator shall be sentenced to minimum of one to maximum of eight years of imprisonment.
- (3) Any person who without authorization publicizes or renders available the essence of a third party's registered invention before such invention has been publicized in a manner established by the law,

shall be fined or sentenced to up to two years of imprisonment.
- (4) Any person filing an application to register a patent without authorization or a person who provides false or withholds true data on the inventor,

shall be sentenced to minimum of six months to up to maximum of five years of imprisonment.
- (5) The objects of the offenses and any devices used or intended to be used to commit the offences referred to in paragraphs 1 - 3 of this Article shall be forfeited, and the objects of the offences shall be destroyed.

Unauthorized Use of Another Person's Design
Article 238

- (1) Any person who without authorization uses on his product placed into circulation, in whole or in part, another person's registered or protected design of a product,

shall be fined or sentenced to up to three years of imprisonment.
- (2) Any person who without authorization publicizes or otherwise makes available to the public another person's registered design before such design has been publicized in a manner established by law,

shall be fined or sentenced to up to one year of imprisonment.

- (3) The objects of offences and any items intended for or used to commit the offence referred to in paragraphs 1 and 2 of this Article shall be forfeited, and the objects of the offences shall be destroyed.

Unauthorized Use of a Company Name Belonging to Another
Article 271

Any person who, with the intention to deceive consumers or service users, uses a third party's company name, indication of geographical origin, trademark, protected mark or a designation of goods, or includes characteristic designations in his own company name, trademark, protected mark or specific designation of goods,

shall be fined or sentenced to up to three years of imprisonment.