

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE

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SPECIAL MENTION

BOSNIA AND HERZEGOVINA

Piracy and enforcement deficiencies: The lack of effective enforcement activities is problematic in Bosnia and Herzegovina. High levels of piracy in the business software sector are reported, including the widespread use of unlicensed software in both commercial and public enterprises. The overwhelming amount of music discs (largely on CD-Rs), video tapes and DVDs sold in the country also are pirate. CD shops routinely sell pirated business software, and computers regularly are sold with illegal software pre-installed. The music industry reports that CD shops located in urban areas tend to sell legitimate copies of regional and local repertoire. However, international repertoire is widely sold in street stalls by pirate vendors, and in numerous specialist shops located by, and catering to, troop bases of the multinational Stabilization Force (EUFOR) that serve in the country. Specialized CD shops are invariably located in what are almost exclusively pirate music/games enclaves. Therefore, decisive action against the speciality shops and vendors should not be difficult for the Bosnian government authorities to undertake. Pirated CD-Rs containing music are produced in Bosnia and shipped into Croatia, disrupting that market as well.

Copyright law deficiencies: The business software industry (BSA) reports that the pertinent laws in Bosnia and Herzegovina do not provide adequate and effective protection of copyright. Deficiencies include: the absence of clear protection for temporary copies; a too-broad decompilation rule that is not in line with the EC Copyright Directive; and the fact that possession of illegal software for commercial purposes is not an infringement. Necessary amendments to the 2002 Copyright Act have not yet been adopted.

Enforcement deficiencies in the area of business software: Even more troubling, the present, albeit deficient, copyright law has not been applied in practice to date. An exception in 2004 — the first signs of IPR enforcement — consisted of several police raids against music and other IP pirates (these actions were undertaken in December 2004). Official results of the raids are not yet available; thus any assessment of these actions is premature. Such raids, although a positive step, are nonetheless isolated, and do not mitigate the overwhelming deficiencies in the field of IP protection. Police, prosecutors and customs officials still lack the equipment and expertise necessary to conduct raids, perform investigations, and commence cases against copyright infringers. Nor does the judiciary have the necessary training or experience with IPR issues. Most software users continue to use illegal software; licensed software is so rare as to be almost non-existent. In addition, the software industry understands that illegal software is in use by government institutions, including those responsible for enforcement of copyright and related rights law. Last, piracy at the border is a particular problem; customs authorities are not taking appropriate actions to prevent the shipment of pirated products to and across the country.

In order to achieve adequate and effective protection of intellectual property rights for all copyright industries, the government of Bosnia and Herzegovina must take immediate and decisive measures to establish an effective IPR enforcement regime.
ve its enforcement against copyright piracy.