

# ALBANIA

## INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)

### 2012 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

**Special 301 Recommendation:** IIPA recommends that the U.S. Government should actively monitor developments in Albania during 2012 with respect to the issues discussed in this Special Mention report.

**Executive Summary:** Several copyright industries, including the motion picture industry and the business software industry in particular, note significant enforcement problems in Albania. According to the Business Software Alliance (BSA), the software piracy rate in Albania has held steady at around 75% for the past few years.<sup>1</sup> This ranks Albania behind only the Republic of Montenegro (79%) in piracy in the Western-Balkans peninsula.

In general, Albania's legal framework for IPR protection is sufficient; a new (and improved) Copyright Law is expected to be considered by the Parliament in 2012 to implement key European Union directives (such as the 2004 Enforcement Directive). Drafts of the law are currently being considered by the government (Ministry of Culture and the Copyright Office), including meetings with rights holders. Passage of the law is also necessary to implement the Government of Albania's "Intellectual Property Rights Enforcement Strategy 2010-2015" which established a dedicated interagency detail (an *ad hoc* IPR "Inspection Agency") for combating IPR enforcement. There were two other additions to the legal framework. The first, was adopted in 2009 (implementing the 2003 European Council Regulation No. 1383/2003), to provide customs officials with *ex-officio* authority to suspend the release of goods or to seize goods on sufficient grounds. In addition to this authority, customs actions can also be undertaken on a rights holder's request. The second was adopted, effective July 2011, to the Law on Inspections, which allows internal market inspections (including IP inspectors) to use *ex officio* authority.

Despite these encouraging legal reforms, enforcement activity by government authorities is described as "virtually non-existent" – for most copyright industries, and especially in the case of the business software industry. The BSA reported that there were no raids conducted by enforcement authorities in 2011, even after notifications by rights holders, against suspected businesses engaged in software piracy.

Inspectors of the Albanian Copyright Office (until, July 2011, the agency with responsibility for monitoring and surveillance of the marketplace for copyright materials) have lacked both the personnel and expertise to act properly and efficiently. Under the July 2011 amendments, this authority for inspections transferred from ACO to the new system of "ad-hoc" inspectors in the Ministry of Tourism and Culture, where it is hoped that more effective enforcement will result. To date, there has been a general lack of knowledge, experience and training in the inspection and prosecution of copyright cases (especially software piracy cases), despite numerous rights holder training programs over the last several years. In addition, the legal structure bifurcated the issuance of fines by ACO, and the collection of fines, by the tax authorities, who, alas, have not collected any fines imposed. The problems of inadequate enforcement persist for customs officials as well – where training, personnel, and experience is lacking

---

<sup>1</sup>BSA's 2011 software piracy statistics will not be available until after the filing deadline for this submission, but will be released in mid-May 2012, at which time piracy rates and U.S. software publishers' share of commercial value of pirated software will be available at [www.iipa.com](http://www.iipa.com). In 2010, the software piracy rate in Albania was 75%, representing a commercial value of unlicensed software attributable to U.S. vendors of US\$3.30 million. These statistics follow the methodology compiled in the Eighth Annual BSA and IDC Global Software Piracy Study (May 2011), <http://portal.bsa.org/globalpiracy2010/index.html>. These figures cover packaged PC software, including operating systems, business applications, and consumer applications such as PC gaming, personal finance, and reference software – including freeware and open source software. They do not cover software that runs on servers or mainframes, or routine device drivers and free downloadable utilities such as screen savers. The methodology used to calculate this and other piracy numbers are described in IIPA's 2012 Special 301 submission at <http://www.iipa.com/pdf/2012spec301methodology.pdf>



(in the new department handling IPR matters). The General Customs office remains understaffed, and as a result, software piracy seizures or actions using *ex officio* authority, or upon a request filed by a rights holder, have been very weak.

One particular problem in Albania has been television piracy. There are over 60 public and private channels in Albania and many stations continue to broadcast U.S.-owned motion pictures without a license. In some cases, the materials have been licensed to certain stations in Albania, and other stations simply take and rebroadcast them without a license. The National Council of Radio and Television (NCRT) has issued fines against some of the broadcasters, but the fines have not been a deterrent penalty. This is because only the local tax authorities have the ability to execute (collect) the fines, and they are not doing so, despite a Memorandum of Understanding between the NCRT and the tax authorities. Both the individual rights holders (the studios), and the Motion Picture Association of America (MPAA) have sent cease and desist letters to individual stations, but to no avail. The stations continue to broadcast unlicensed material, and the current enforcement regime in Albania has either been unable or unwilling to stop this activity.

In sum, passage of the new Copyright Law is the top priority on the legislative side, and the implementation of Law on Inspections with the creation and effective enforcement by *ad hoc* IPR inspectors, is the top priority for enforcement. Other priority actions include: (a) amending the current Criminal Code to give state prosecutors *ex officio* authority to prosecute copyright infringements; (b) improving the resources, training and expertise of both the Albanian Copyright Office and the Albanian Customs IPR Department in order to enable these authorities to start effectively pursuing IPR enforcement; (c) addressing the television piracy problem; and (d) creating specialized IP courts (including an Administrative Court), and conducting more IPR enforcement training, to improve IPR enforcement by judges, prosecutors and enforcement agencies.