

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE

2005 SPECIAL 301

SPECIAL MENTION

GEORGIA

Copyright and other legislative deficiencies: The rights of international phonogram producers are not fully protected in Georgia. Georgia has not even ratified the Geneva Phonograms Convention—an obligation that it undertook in an agreement with the United States more than a decade ago.

In a February 2002 review, the U.S. Trade Representative noted that, even after Georgian accession to the WTO (in 2000), “the U.S. government is concerned with key gaps in the legal regime...” and noted in particular “the lack of *ex officio* authority (the authority to undertake action without a rightholder’s complaint) for customs and criminal authorities, as well as the lack of civil *ex parte* search and seizure procedures conducted without notice to the alleged infringers.” These problems have still not been addressed. Under Georgian law, customs officials are authorized to seize suspected IP materials and hold them until a court renders a decision. However, one provision that significantly weakens the effectiveness of these provisions requires that an application be submitted by the rightholder before such action can commence. Now, three years after the report by the U.S. government, Georgia has still not corrected these deficiencies (and including complete ratification of the digital treaties that it acceded to) nor has it improved its enforcement regime.

National legislation must be amended to enhance effective anti-piracy activity. Currently, the Georgian Administrative Code does not provide liability for distribution or other illegal use of phonograms.

There were an estimated 5.5 million pirate copies of sound recordings sold last year, including 4.3 million cassettes and 1.2 million CDs. Piracy rates for the music sector at large was approximately 80%, and over 90% for American repertoire. Trade losses suffered by American industry amounted to US\$8 million and overall losses suffered by international rightholders exceeded US\$11.4 million.

Enforcement deficiencies: In 2004, upon initiation of rightholders’ complaints, the Georgian Police initiated two criminal cases under Article 189 of the Georgian Criminal Code. Police seized 160 CD-Rs and 684 cassettes containing phonograms of national and international repertoire. The investigation of these criminal cases is still ongoing; unfortunately, these are the only two reported cases.

There are no separate subdivisions or officers responsible for the fight against intellectual property infringements within the Georgian law enforcement agencies. This significantly impedes the establishment of an effective anti-piracy program.