

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE

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SPECIAL MENTION

MACEDONIA

Copyright enforcement is weak in Macedonia, according to all copyright industries active in the country. Markets for legitimate content barely exist and are heavily influenced by high piracy levels in all sectors. The overall music piracy level reaches as high as 95%, with pirate copies of international repertoire smuggled in from neighboring Eastern European countries. Domestic repertoire is targeted by the local CD-R pirates. The business software industry has seen some progress in the form of legal use of software by the government, education and awareness campaigns that are beginning to have initial impact. Additionally, the industry has seen some positive movement with respect to the acquisition of legal software by some businesses. Nonetheless, high levels of piracy in the business software sector still remain, most notably with respect to the widespread use of unlicensed software by commercial entities. Computers regularly are sold with illegal software pre-installed; but in recent months BSA reports that some system builders have been receptive to making commitments to adhere to the law and sell computers with legal software. Furthermore, police, prosecutors and customs officials lack the necessary equipment and expertise to conduct raids, perform investigations, and commence cases against copyright infringers. Also, the Copyright Inspectorate (which can take administrative enforcement actions) has failed to refer cases that merit criminal investigation to the police and prosecutors. Following recent Copyright Law amendments, the State Market Inspectorate is now competent to enforce the Copyright Law (as of January 2005); however, this extremely recent change remains untested in practice. Although the criminal and copyright laws permit the seizure and destruction of equipment used to make pirated goods, police and other enforcement bodies fail to do so in practice.

Piracy at the border is a particular concern, and customs authorities do not take appropriate action to prevent the shipment of infringing goods to and across Macedonia. Two particular problem areas are Macedonia's borders with Kosovo and Bulgaria. Another issue is excessive procedural delays. The business software industry reports that in general court procedures take an inordinately long time. Also, it is rare for Macedonian courts to issue injunctions in criminal proceedings, even though there are legal provisions permitting such injunctions. When judgments are handed down by courts, they usually result only in minimal fines, rather than fines or prison sentences that constitute a deterrent to further infringement. However, in a sign of improvement, in 2004, the first two judgments were issued against persons who infringed software copyright.

At the end of 2004, Macedonia ratified the WIPO Performances and Phonograms Treaty (WPPT), which is due to enter into force on 20 March 2005. Unfortunately, the Macedonian Government decided to make two reservations following its earlier reservations to the 1961 Rome Convention. First, with respect to Article 3(3), phonograms published outside the territory of Macedonia will not be granted full national treatment. Furthermore, Macedonia took a reservation with respect to Article 15(3) of the WPPT, and as such, phonogram producers are unable to enjoy the broadcasting and communication to the public rights.