

# ALBANIA

## INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA) 2011 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Recommendation: IIPA recommends that the U.S. Government should actively monitor developments in Albania during 2011 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 preliminary Business Software Alliance (BSA) estimates, the software piracy rate in Albania in 2010 was 73%, and the corresponding commercial value of unlicensed software put into the marketplace there was \$5.1 million.<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 2011 to implement key European Union directives (such as the 2004 Enforcement Directive). 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. One other addition to the legal framework 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.

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.

Inspectors of the Albanian Copyright Office (the agency with responsibility for monitoring and surveillance of the marketplace for copyright materials) lack both the personnel and expertise to act properly and efficiently. There are only three inspectors nationwide, and other major resource shortcomings, in addition to a lack of knowledge, experience and training in the inspection and prosecution of copyright cases (especially software piracy cases). This, despite several training programs undertaken by and with rights holders in the past few years. To date, the authorities have not launched any raids against suspected infringers of business software. The same is true for customs officials – where training, personnel, and experience is also lacking (in the new department handling IPR matters) – and there have been no software piracy seizures or actions either using their *ex officio* authority or upon a request filed by a rights holder.

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

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<sup>1</sup>BSA's 2010 statistics are preliminary, representing U.S. software publishers' share of commercial value of pirated software in Albania. They follow the methodology compiled in the Seventh Annual BSA and IDC Global Software Piracy Study (May 2010), <http://portal.bsa.org/globalpiracy2009/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 2011 Special 301 submission at [www.iipa.com/pdf/2011spec301methodology.pdf](http://www.iipa.com/pdf/2011spec301methodology.pdf). BSA's final piracy figures will be released in mid-May, and the updated US software publishers' share of commercial value of pirated software will be available at [www.iipa.com](http://www.iipa.com).



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 and the establishment of the *ad hoc* IPR Inspection Agency are the two top priorities on the legislative side. Other priority actions include: (a) amending the current Criminal Code to give state prosecutors *ex officio* authority to prosecute copyright infringements; and (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.