

# MOLDOVA

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

Special 301 Recommendation: IIPA recommends that the U.S. Government should actively monitor developments in Moldova during 2011 with respect to the issues discussed in this Special Mention report.

Executive Summary<sup>1</sup>: Several copyright industries, including the business software industry and the motion picture industry in particular, note significant enforcement problems in Moldova. In short, the industries report that there is little, if any, sustained and consistent IP enforcement activity and not enough public awareness on the basics of copyright protections and rights, all of which resulted in a drop off in enforcement activity in 2010, and sustained high piracy rates.

According to preliminary Business Software Alliance (BSA) estimates, the software piracy rate in Moldova in 2010 was 90% – an unacceptably high rate, and the corresponding commercial value of unlicensed software put into the marketplace there was \$19.1 million.<sup>2</sup> One of the hindrances to effective enforcement is the lack of IPR training and experience by the police, prosecutors, and judges, responsible for dealing with copyright enforcement matters. In 2010, the number and size of raids undertaken against suspected infringers decreased; most investigations (cases) were closed without a trial or conviction. This is due, in large measure, to the low priority given IPR enforcement, and the competence of the enforcement authorities.

One prime example: the largest “national” torrent tracker responsible for copyright infringement in Moldova was closed by the authorities in November 2010. Within a few weeks, the same service was up and running with virtually the same illegal content. In addition, no criminal investigation or case has been commenced against either the owners or operators of this illegal service and site.

The copyright industries report that in 2010, 15 new criminal investigations for IPR cases were commenced. Of this total the following were reported:

- Two matters were closed and one is on appeal.
- Two cases are still pending in a Moldovan court.
- Four matters are still under investigation and no cases have commenced (or been dismissed).
- Six investigations were terminated before cases could even commence.

Priority actions to be taken in 2011: IIPA recommends that the Government of Moldova should make the following its IPR enforcement priorities in 2011:

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<sup>1</sup>For more details on Moldova’s Special 301 history, see IIPA’s “History” appendix to this filing at <http://www.iipa.com/rbc/2011/2011SPEC301HISTORICALSUMMARY.pdf>, as well as the previous years’ reports, at <http://www.iipa.com/countryreports.html>. For a summary of IIPA’s 2011 global issues, see our cover letter at <http://www.iipa.com/pdf/2011SPEC301COVERLETTER.pdf>.

<sup>2</sup>BSA’s 2010 statistics are preliminary, representing U.S. software publishers’ share of commercial value of pirated software in Moldova. 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).



- Raise public awareness on the importance of IP protection and rights through joint educational and public relations campaigns between the government and rights holders. This would also include organizing conferences focusing on the value of IPR in general, and on the importance of enforcement to help local and foreign rights holders establish a legitimate marketplace in Moldova. One such program could follow up on the EU project called: "Support to Implementation and Enforcement of Intellectual Property Rights in the Republic of Moldova" (which commenced in November 2010).
- Increase the number of training programs for police, prosecutors, and judges on the basics of IPR protection and enforcement – including a focus on online piracy problems.
- Increase the overall number and size of raids and cases against IPR infringers.

Although the copyright industries generally report that the Moldavian IPR legal infrastructure is sound (and, for the most part, harmonized with European Union directives), implementation of its laws, and on-the-ground enforcement is lacking in overall numbers of raids and seizures, and criminal cases and convictions compared with other countries in the region.

In short, IPR protection is not a high priority for the Government of Moldova, and significant investments made by the copyright industries in past training programs for local law enforcement officials has been wasted investments to date. Thus, despite the good relationships between right holders and the Anti-Fraud Police and IPR Crimes Department of the General Public Prosecutor's Office, the number and quality of raids has decreased in the past year. The police lack sufficient resources, equipment and expertise to effectively conduct raids, and the storage and inspection of seized pirated materials remains a major concern for rights holders. Moreover, the lengthy court proceedings mean that the copyright industries cannot secure effective enforcement and cannot get a strong foothold in a legal marketplace in Moldova. One suggested starting point for enforcement would be for the courts to issue civil injunctions in a matter of days (three days to three weeks is the average in Central Europe) against end-user and other pirates. In Moldova, this process currently takes longer than six months – just one indication of the overall weak enforcement climate in Moldova.