

# MOLDOVA

## 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 Moldova during 2012 with respect to the issues discussed in this Special Mention report.

**Executive Summary**<sup>1</sup>: Several copyright industries, including in particular, the business software industry and the motion picture industry, note significant enforcement problems in Moldova. In short, these industries report that there is little, if any, sustained and consistent IPR enforcement activity and not enough public awareness on the basics of copyright protections and rights; and, high piracy rates have remained a constant.

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 2011, 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, as well as the competence of the enforcement authorities. According to the Business Software Alliance (BSA), the software piracy rate in Moldova remains unacceptably high (it was 90% in 2010).<sup>2</sup>

In November 2010, the largest “national” torrent tracker responsible for copyright infringement in Moldova was taken “down” by the local enforcement authorities (it had a reported 270,000 users at the time). However, within a few weeks, the same service was up and running with virtually the same illegal content. To date, no criminal investigation or case has been commenced against either the owners or operators of this illegal service and site, and no administrative actions were taken either.

The BSA reported that in 2011, seven new criminal investigations for software piracy were commenced. Of this total, six are still under investigation, and only one was sent forward to trial, where it is pending in the court. BSA further reported, that of the 2010 criminal cases (seven total) commenced:

- Two cases were closed: one due to a final court decision (a fine was imposed of 20,000 Leu or \$1,691 USD); the other case was settled with rights holders.
- One case is still pending in a Moldovan court.
- Two investigations were terminated before cases could commence.
- Two are still under investigation.

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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/pdf/2012SPEC301HISTORICALCHART.pdf>, as well as the previous years’ reports, at <http://www.iipa.com/countryreports.html>. For a summary of IIPA’s 2012 global issues, see our cover letter at <http://www.iipa.com/pdf/2012SPEC301COVERLETTER.pdf>.

<sup>2</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). The 2010 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>.



## **PRIORITY ACTIONS TO BE TAKEN IN 2012**

IIPA recommends that the Government of Moldova should make the following its IPR enforcement priorities in 2012:

- 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 have not proven fruitful. 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 over the past few years. The police lack sufficient resources, equipment and expertise to effectively conduct raids, and the storage and inspection of seized pirated materials remain major concerns for rights holders. Moreover, the lengthy court proceedings mean that the copyright industries cannot secure effective enforcement and cannot get a strong foot-hold 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.