

MACEDONIA

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)

2014 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Several copyright industries, particularly the software industry, are concerned about the weak overall IPR enforcement in Macedonia.¹ The software industry is also concerned about the incidence of government agencies using unlicensed (or under licensed) software. According to BSA | The Software Alliance (BSA), the software piracy rate in 2011 was 66%, which is above the average for the Central and Eastern European region, and far above the global average.²

Enforcement: IPR enforcement in Macedonia could be significantly improved if the government would take the following steps. First, following the example of the Customs Administration within the Ministry of Interior Affairs, the Economic Crimes Division should establish a special unit dedicated to investigating copyright piracy. Such a unit should not only be tasked with enforcing copyright violations according to the Criminal Code, but it should improve the transparency and accountability of enforcement efforts. Currently, the Coordinative Body for Intellectual Property, an intergovernmental body in charge of coordinating IPR enforcement with representatives from the Ministry of Interior, the State Market Inspectorate, the State Office for Industrial Property, the Ministry of Culture, and the Ministry of Finance – Tax Administration, does not provide rights holders with information on the number of raids conducted or their outcome, whether they be *ex officio* actions or rights holders initiated investigations.

Legal Reform: The legal underpinnings of IPR protection are generally satisfactory and in line with international norms. The Law on Copyright and Related Rights and the Civil Procedure Law, which govern civil litigation of copyright infringement, allow for damage awards, including the possibility of punitive damages. The courts conduct civil cases in a fair and transparent manner, and in accordance with the law. The Criminal Law and the Law on Criminal Procedure are also generally adequate, although for the software industry, two important amendments are recommended. First, the penalties applied to the unauthorized use of software by enterprises should be increased to match the remedies available for other IPR crimes. Second, the law should make clear that privacy protections do not render a special court order necessary to authorize the seizure of computers by enforcement authorities.

Public Policy – Computer Hardware Procurement: In addition to the recommendations above regarding IPR protection and enforcement, BSA urges the Government of Macedonia to reconsider one concerning development. In the last two years, several administrative agencies and the Bureau for Public Procurement announced that public procurement tenders for the acquisition of computer hardware will require that the machines not be pre-installed with operating system software. This is also a common practice among local and municipal government agencies. Without clear guidelines and procedures to ensure the procurement and installation of legal software, as well as systems for managing and verifying the continued use of legal software, the use of unlicensed or under licensed software is likely to increase in government agencies in Macedonia.

Public Awareness: BSA approached the Coordinative Body for Intellectual Property several times in 2013 with proposals to cooperate on public education campaigns to improve awareness among enterprises of the risks of using unlicensed software. While these proposals were well received, there has been no decision from the government to implement any such activities.

¹For more details on Macedonia's Special 301 history, see previous years' reports at <http://www.iipa.com/countryreports.html>. For the history of Macedonia's Special 301 placement, see <http://www.iipa.com/pdf/2014SPEC301HISTORICALCHART.pdf>. For a discussion of IIPA's 2014 Key Initiatives and Challenges, see IIPA, *2014 Special 301 Submission*, at <http://www.iipa.com/pdf/2014SPEC301COVERLETTER.pdf>.

²Data on software piracy rates and commercial values are taken from the 2011 BSA Global Software Piracy Study at www.bsa.org/globalstudy. This study assesses piracy rates and the commercial value of unlicensed software installed on personal computers during 2011 in more than 100 markets. The study includes a detailed discussion of the methodology used. BSA plans to release an updated study in the second quarter of 2014.

