

# MOLDOVA

## INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA) 2014 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

The copyright industries, particularly the software industry, note significant enforcement problems in Moldova.<sup>1</sup> According to BSA | The Software Alliance (BSA), the software piracy rate in Moldova remains among the highest in the world, at 90% in 2011.<sup>2</sup>

Compared with other countries in the region, there are insufficient raids and seizures, criminal cases and convictions. IPR protection is no longer a priority for the Government of Moldova. As a consequence, significant investments made by the software industry in past training programs for local law enforcement officials are being squandered. There are generally good relationships between rights holders and the new Intellectual Property Division within the Police General Inspectorate and the IT and cyber-crimes section within the General Public Prosecutor's Office. However, 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. In 2013, the government completed its restructuring of the police forces, resulting in the creation of the Intellectual Property Division (referenced above), which should improve IPR enforcement if properly resourced. One other positive note: the Ministry of Internal Affairs approved an internal reform strategy intended to ultimately improve IPR enforcement.

Unnecessarily lengthy court proceedings are an additional concern; as a result, the copyright industries cannot secure effective enforcement or get a strong foot-hold in a legal marketplace in Moldova. One suggested starting point 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.

### **PRIORITY ACTIONS REQUESTED IN 2014**

The Government of Moldova should take the following steps to improve the IPR enforcement environment in 2014:

- Provide training programs for police, prosecutors, and judges on IPR protection and enforcement – including a focus on online piracy problems.
- Increase – significantly – the overall number and size of raids and cases against IPR infringers.
- Conduct joint public awareness relations campaigns between the government and rights holders, including conferences on the value of IPR and IPR enforcement, to help local and foreign rights holders establish a legitimate marketplace in Moldova and a campaign on the risks of using unlicensed software by enterprises, led by the Agency for Intellectual Property Rights Protection.

In addition Moldova should amend Article 37(1)(d) of its Copyright Law to provide an exclusive right of making available as required by the WIPO Performances and Phonograms Treaty (WPPT) and an exclusive right of reproduction as required by the WTO TRIPS Agreement. Instead, Moldova now permits a statutory license for the making available to the public of phonograms. In October 2013, draft amendments were introduced in the Parliament, including a provision to amend Article 37.

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<sup>1</sup>For more details on Moldova's Special 301 history, see previous years' reports at <http://www.iipa.com/countryreports.html>. For the history of Moldova'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>.

<sup>2</sup>Data on software piracy rates and commercial values are taken from the 2011 BSA Global Software Piracy Study at [www.bsa.org/globalstudy](http://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.

