

MONTENEGRO

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)

2014 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Several copyright industries, and in particular the software industry, are concerned about the weak overall enforcement in Montenegro.¹ According to BSA | The Software Alliance (BSA), the software piracy rate in Montenegro was 79% in 2011, far exceeding the regional average.² The problems in Montenegro are three-fold: little to no enforcement, several key deficiencies in the legal IPR regime of Montenegro, and a general lack of awareness on the benefits of IPR protection and enforcement.

To rectify the public education problem, BSA, in cooperation with the Government of Montenegro (the Ministry of the Economy) and the local American Chamber of Commerce, conducted a massive IPR awareness campaign in the Spring of 2013 aimed at raising awareness on the importance of using licensed software. The campaign was widely disseminated with billboards and other media advertisements.

The Montenegro Intellectual Property Rights Law (last amended in 2011), established a Market Inspectorate as the key enforcement agency for IPR. Members of the Inspectorate have shown a clear willingness to enforce IPR and have been formally trained (including through programs organized by BSA), but have conducted, to date, limited actions, in large part due to legislative deficiencies in the existing IPR regime. Formal recommendations on legislative reforms have been provided to the relevant government ministries by rights holders.

PRIORITY ACTIONS REQUESTED IN 2014

The Government of Montenegro should take the following steps as a matter of urgency:

- Amend the IPR Law to:
 - Define misdemeanor penalties for infringements of the works of authors of copyrighted works and related rights;
 - Implement the penal provisions in the IPR Law pertaining to economic offenses, including monetary fines for misdemeanors; and
 - Define infringements as including not only the distribution of infringing works, but also other exploitations of them, for example, by including the unauthorized use of unlicensed software on personal computers (PCs) – so that enforcement authorities do not need to wait for the distribution of the PCs (such as by legal entities that own the PCs) to seize unlicensed software contained in them.
- Undertake effective enforcement actions using existing criminal, administrative and civil remedies.

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

