

BOSNIA AND HERZEGOVINA

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 Bosnia and Herzegovina and the decline in both criminal and administrative IPR enforcement activities in the past year.¹ According to BSA | The Software Alliance (BSA), the software piracy rate in Bosnia and Herzegovina was 66% in 2011.²

There are several procedural deficiencies in the Bosnian IPR enforcement regime as well. First, evidence collected in the few administrative enforcement cases that do go forward is often gathered using sub-standard techniques that jeopardize the success of these cases. This also harms rights holders' ability to seek damages because the necessary information is not available, resulting in non-deterrent awards. For the cases that do proceed, for example in civil courts, judges and prosecutors are not experienced with IPR cases, and that, plus lengthy and burdensome procedures, leads to poor results. Creating specialized IPR courts and judges would improve the quality of civil cases and increase the confidence of rights holders in using the civil enforcement system.

Although police have *ex officio* authority, they rarely use it. In cases where complaints are filed by rights holders, the investigative stage of a case can last for years. The police prefer that IPR infringements be handled via administrative mechanisms, making criminal cases rare and difficult to pursue.

Furthermore, the government does not seem to have much interest in public awareness campaigns, even if some have occurred in the past, ceding these activities to rights holders.

PRIORITY ACTIONS REQUESTED IN 2014

The Government of Bosnia and Herzegovina should take the following actions in 2014:

- Harmonize the state Copyright Law and the local procedural laws governing the market inspectorates in charge of enforcement.
- Raise public awareness on IPR through joint educational campaigns between the government and rights holders organizations, including a focus on the risks of using unlicensed software by enterprises.
- Conduct more training programs for market inspectors, customs and border control officials, police, prosecutors, and judges on IPR protection and enforcement.
- Improve the quantity and quality of administrative enforcement; improve information sharing with rights holders.
- Increase the quantity and quality of criminal enforcement to create deterrence in the market.
- Improve civil cases through the training of judges and through procedural fixes (i.e., shortening case times), and ensuring that IPR cases are only brought before trained judges.
- Develop a comprehensive IPR protection and enforcement plan.

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

