

BELARUS

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)

2024 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Belarus remain on the Watch List in 2024.¹

Executive Summary: After years of Belarus working to improve its laws on intellectual property (IP) protection and enforcement, Belarus took a significant step backward in 2022 with the passage of Law No. 241-3, which legalized piracy against foreign states “committing unfriendly actions.” This law is a flagrant violation of Belarus’s international treaty obligations and a direct affront to American copyright industries. Making matters worse, the Government of Belarus is blatantly financially benefiting from this government-sponsored copyright infringement. IIPA urges Belarus to rescind this law and to comply with its international obligations, including with respect to copyright and related rights.

PRIORITY ACTIONS REQUESTED IN 2024

Enforcement

- Repeal Law No. 241-3, which legalizes unlicensed use of copyrighted works.

Rights Management

- Repeal problematic provisions of Law No. 243-ÿ, which imposed a requirement that certain rights of performers and phonogram producers, including exclusive rights, be collectively managed by a state-owned collective management organization (CMO).

ENFORCEMENT

- **Repeal Law No. 241-3, which legalizes unlicensed use of copyrighted works.**

With the passage in 2022 of Law No. 241-3, Belarus has legalized the unlicensed use of copyrighted works of all kinds, including computer programs, broadcasts of a broadcasting organization, audiovisual works, and musical works. The Government of Belarus has stated that the law is temporary, and it is currently set to expire on December 31, 2024. The law allows the importation of goods with copyrighted content into the territory of the Republic of Belarus, so-called “parallel import,” and allows the circulation of those goods without the consent of rights holders from foreign states “committing unfriendly actions,” if such goods are included in the lists of goods that are essential for the domestic market as approved by state bodies authorized by the Council of Ministers. Once such goods are included on the list of goods that are essential for the domestic market, they are removed from the customs register, which means the Government of Belarus ceases border enforcement against those infringing goods.

The law further directs Belarus’s National Center of Intellectual Property (NCIP) to collect royalties on this unlicensed use of copyrighted works on behalf of the individuals and entities from “unfriendly” states – with a right for NCIP to apply a 20% admin fee – and to retain this remuneration for three years on behalf of the rights holder or CMO. If the rights holder or CMO do not request the royalties during this period, the monies will be transferred to Belarus’s general budget within three months. The Government of Belarus is blatantly financially benefiting from government-sponsored copyright infringement.

¹ For more details on Belarus’s Special 301 history, see previous years’ reports at <https://www.iipa.org/reports/reports-by-country/>. For the history of Belarus’s Special 301 placement, see <https://www.iipa.org/files/uploads/2024/01/Appendix-B-2024.pdf>.

Belarus is a member of several international IP treaties, such as the Berne Convention and the WIPO Internet Treaties (WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty), which provide for the protection of the works at issue in Law No. 241-3, as well as the enforcement of the rights protected under these treaties. Moreover, the law violates the obligation to grant national treatment to works protected under the Berne Convention. IIPA urges Belarus to repeal this law and to comply with its international obligations, including with respect to copyright and related rights.

RIGHTS MANAGEMENT

- **Repeal problematic provisions of Law No. 243-ÿ, which imposed a requirement that certain rights of performers and phonogram producers be collectively managed by a state-owned collective management organization (CMO).**

Law No. 243-ÿ, adopted in January 2023, introduced further problematic amendments to the Belarusian Copyright Law, making certain performers' and phonogram producers' rights subject to compulsory collective management by a state-owned CMO. Additionally, the new CMO accreditation rules introduced by the same law require that only one CMO, which must be state-owned, is allowed to operate as such. This new framework severely undermines the ability of right holders to exercise their rights and ultimately to monetize the use of their content.