



ევროკავშირი
საქართველოსთვის
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EUIPO
EUROPEAN UNION
INTELLECTUAL PROPERTY OFFICE



ENFORCEMENT PRACTICES AND LEGAL AMENDMENTS

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AGENDA – CIVIL ENFORCEMENT

1. Objective.
2. EU Directive 48 / 2004 - Purpose.
3. EU Directive 48 / 204 - Content.
4. Conclusion.

AGENDA – CIVIL ENFORCEMENT

1. **Objective.**
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OBJECTIVE

To review civil enforcement of
intellectual property rights in the European Union.

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2. EU Directive 48 / 2004 - Purpose.
3. EU Directive 48 / 204 - Content.
4. Conclusion.

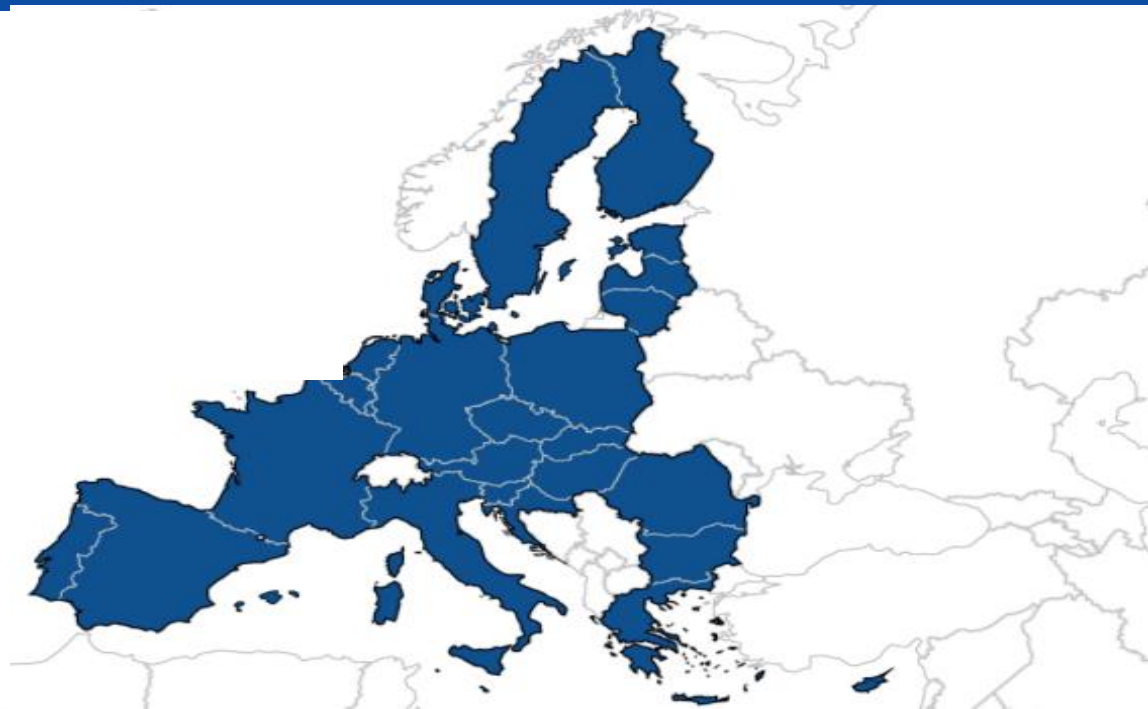
Purpose

2004 – EU Enforcement Directive

1994 - TRIPS

National Legislation

Purpose



Purpose

Purpose

Ensure an equivalent level of protection for intellectual property in all EU member states.

Purpose

- Promoting innovation and business competitiveness.
- Safeguarding employment in EU.
- Preventing tax losses and destabilisation of the markets.
- Ensuring consumer protection.
- Ensuring the maintenance of public order.

Purpose

General Obligation

EU countries should set up the measures and procedures needed to ensure the enforcement of intellectual property rights and take appropriate action against those responsible for counterfeiting and piracy. These measures and procedures should be sufficiently dissuasive, but avoid creating barriers to legitimate trade and offer safeguards against their abuse.

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Content

Persons Entitled to Request Application of Measures and Procedures

A request to apply intellectual property protection measures may be submitted by the holders of intellectual property rights, their representatives and all other persons authorised to use those rights in accordance with the applicable law. Wherever they represent intellectual property right holders, rights management or professional defence bodies may also ask to apply these measures.

Content

Evidence

Where there is a demonstrable risk of an intellectual property right being infringed, even before the commencement of proceedings on the merits of the case, the competent judicial authorities may order prompt provisional measures to preserve evidence.

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Right of Information

At the request of the right holder, the judicial authorities may order any person to provide information on the origin of the goods or services that are thought to infringe an intellectual property right and on the networks for their distribution or provision, if that person:

Content

Right of Information

- was found in possession of the infringing goods for commercial purposes;
- was found to be using the infringing services for commercial purposes;
- was found to be providing services used in infringing activities for commercial purposes;
- was indicated as being involved in the production, manufacture or distribution of the infringing goods or services.

Content

Provisional and Precautionary Measures

At the request of the applicant, the judicial authorities may serve the alleged infringer with an interlocutory injunction intended to:

- prevent any impending infringement of an intellectual property right;
- forbid, on a provisional basis, the continuation of the alleged infringements of an intellectual property right;
- make such continuation subject to the lodging of guarantees intended to ensure the compensation of the right holder.

Content

Measures Resulting from a Decision on the Merits of a Case

At the request of the applicant, the judicial authorities may order the recall of the goods that have been found to infringe an intellectual property right. The goods concerned as well as the materials and implements used for their creation may also be removed from the channels of commerce. Finally, the judicial authorities may order the destruction of counterfeit or pirated goods.

Content

Measures Resulting from a Decision on the Merits of a Case

Where a judicial decision has been taken finding an infringement of an intellectual property right, the judicial authorities may issue against the infringer an injunction aimed at prohibiting the continuation of the infringement. Where appropriate, non-compliance with an injunction may be subject to a recurring penalty payment, with a view to ensuring compliance.

Content

Measures Resulting from a Decision on the Merits of a Case

The competent judicial authorities may also order pecuniary compensation to be paid to the injured party instead of applying the removal or destruction measures, if that person acted unintentionally and if execution of these measures would cause him/her disproportionate harm

Content

Damages and Legal Costs

On application of the injured party, the competent judicial authorities may order an infringer to pay the right holder damages in reparation of the loss incurred.

The court costs, lawyer's fees and any other expenses incurred by the successful party will normally be borne by the other party.

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Conclusion

- Ensure an equivalent level of protection for intellectual property.
- Entitled Persons.
- Evidence.
- Right of Information.
- Provisional and precautionary measures.
- Measures resulting from a decision plus damages and legal costs.



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