

# BULGARIA

## INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA) 2009 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Bulgaria be placed on the Special 301 Watch List in 2009.

**Executive Summary:** Internet piracy (both online and for the delivery of pirated hard goods) has become the most serious copyright problem in Bulgaria. While it is true that street piracy of pirated copyright materials (now mostly burned CD-Rs and DVD-Rs) remains a problem, that has been dwarfed by Internet piracy. The business software community continues to experience problems with end user piracy and hard disk loading. Over the past year, the film, recording, and software industries continue to report good cooperation with most Bulgarian enforcement authorities, including some major actions to take down some Torrent sites. However, there has been little progress imposing deterrent criminal sentences and civil remedies and damages, mostly due to an ineffective judiciary. Many prosecutors are well intentioned but unable to press cases forward. Administrative enforcement actions have yielded virtually no positive results, except in the fight against signal theft piracy where the raids against cable operators have tripled in comparison to the year prior. Raids and actions against both physical and Internet piracy need to be transformed into regular and sustainable enforcement programs bringing together all relevant enforcement bodies. Unfortunately, rights holders' work with the interagency Council on IPR Protection was thwarted in 2008 when the Council's agenda and working principles were reorganized and rights holders could no longer participate directly. It is imperative that the Council reestablish such transparency and direct coordination. Disturbingly, Bulgaria has taken a major step backward in its legislative efforts to halt Internet piracy when a court in December 2008 ruled as unconstitutional a decree that implemented Bulgaria's EU obligations on data retention. This means that there is no way for enforcement authorities to obtain necessary data from Internet service providers regarding the identification of possible infringers using the ISPs' services. It is imperative that the government facilitate and support nascent discussions between the copyright sector and the ISP community on developing cooperative means to halt Internet piracy.

**Priority actions requested to be taken in 2009:** The copyright industries recommend that the following actions be taken in the near term in Bulgaria in order to improve the adequate and effective protection of copyrighted materials there:

### Legislation

- Solve the problem caused by the court's recent ruling undermining Ordinance Number 40 of the Ministry of Interior and the State Agency for Information Technologies and Communication, and provide for the proper and full implementation of the EU Data Retention Directive such that data from ISPs is saved and made available to the authorities investigating Internet crimes.
- Introduce and pass amendments to the tax-related legislation to introduce the "Tax Initiative," giving tax authorities the power to inspect business software license compliance within their routine tax inspections and impose administrative sanctions.
- Draft and adopt appropriate amendments to the Copyright Act, the Tourism Act and the Radio and TV Act to ensure that payments for the public broadcasting of sound recordings are collected.
- Develop the proper legal instrument giving Customs the authority to promptly seize and destroy pirated and counterfeit products.

### Enforcement

- Improve institutional cooperation in IPR enforcement through the Council for IPR Protection by setting up a Task Force to facilitate and speed up the prosecution of Internet related crimes. This cooperation also should include building and implementing a long-term consistent strategy for the Council to work with the private sector, in a transparent and cooperative manner, to combat all forms of piracy.
- Support efforts of copyright sectors and ISPs, as facilitated by the State Agency for Information Technologies and Communication, to negotiate a voluntary Memorandum of Understanding on Internet piracy actions. Take steps to encourage the active cooperation of Internet service providers with rights holders to prevent the use of networks for the commission of infringing acts, including but not limited to requiring the termination of accounts of repeat infringers. As an



immediate first step to achieving this objective, the government should convene meetings of affected sectors to discuss ways to work cooperatively toward halting the transmissions of illegal copyrighted materials on telecommunications networks.

- Support the good Internet piracy work of the CyberCrime Unit, provide more resources, and encourage more actions.
- Engage the Economic Police to take more actions against software piracy (end user, hard disk loading) by resuming the upgraded Police Direct Contact program.
- Reduce delays in criminal prosecutions and trials, and impose deterrent sanctions in piracy cases.
- Improve judicial issuance of expeditious and adequate civil remedies in business software cases, including the issuance of *ex parte* civil searches, damages, and injunctive relief.
- Increase the administrative actions against all types of signal piracy against cable operators that transmit TV programs without the consent of the rights holders and urge the Ministry of Culture to increase the rates of the imposed administrative fines.
- Take administrative actions against all types of software piracy and against users of recorded music that fail to pay public performance royalties.
- Strengthen the judiciary and establish unified practices (such as mandatory instructions of the Prosecutor General) in the investigation and prosecution of IPR crimes; continue training prosecutors, investigative magistrates and judges on IPR, and instruct them to give priority to IPR infringement cases.
- Support country-wide pro-copyright education and anti-piracy awareness and public education campaigns.

BULGARIA Estimated Trade Losses Due to Copyright Piracy (in millions of U.S. dollars) and Levels of Piracy: 2004-2008 <sup>1</sup>										
INDUSTRY	2008		2007		2006		2005		2004	
	Loss	Level	Loss	Level	Loss	Level	Loss	Level	Loss	Level
Sound Recordings & Musical Compositions	NA	NA	NA	NA	7.0	75%	7.0	80%	6.5	75%
Business Software <sup>2</sup>	53.0	70%	38.0	68%	25.0	69%	21.0	71%	18.0	71%
Entertainment Software <sup>3</sup>	NA	NA	NA	NA	NA	NA	21.0	81%	NA	50%
Motion Pictures	NA	NA	NA	NA	NA	NA	8.0	NA	4.0	35%
Books	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
TOTALS	53.0		38.0		32.0		57.0		28.5	

On January 1, 2007, Bulgaria joined the European Union. When the European Commission confirmed Bulgaria's accession, it noted progress on key issues and identified the need for Bulgaria to continue efforts to fight corruption, improve judicial reform and prosecute organized crime.<sup>4</sup> In April 2007, USTR removed Bulgaria from the Special 301 Watch List because of passage of legislation (the 2007 Optical Discs Act) and improved enforcement, especially against hard goods/optical disc piracy.

<sup>1</sup> The methodology used by IIPA member associations to calculate these estimated piracy levels and losses is described in Appendix B of IIPA's 2009 Special 301 submission at [www.iipa.com/pdf/2009spec301methodology.pdf](http://www.iipa.com/pdf/2009spec301methodology.pdf). For information on Bulgaria under Special 301 review, see Appendix D at <http://www.iipa.com/pdf/2009SPEC301USTRHISTORY.pdf> and Appendix E at <http://www.iipa.com/pdf/2009SPEC301HISTORICALSUMMARY.pdf> of this submission. For a global overview of IIPA's global issues, see the IIPA cover letter to USTR in this 2009 Special 301 filing at <http://www.iipa.com/pdf/2009SPEC301COVERLETTER.pdf>.

<sup>2</sup> BSA's 2008 statistics are preliminary, represent the U.S. publishers' share of software piracy losses in Bulgaria, and follow the methodology compiled in the Fifth Annual BSA/IDC Global Software Piracy Study (May 2008), available at [www.bsa.org](http://www.bsa.org). These figures cover, in addition to business applications software, computer applications such as operating systems, consumer applications such as PC gaming, personal finance, and reference software.

<sup>3</sup> ESA's reported dollar figures reflect the value of pirate product present in the marketplace as distinguished from definitive industry "losses." The methodology used by the ESA is further described in Appendix B of this report.

<sup>4</sup> Press Release IP/06/1257 of the European Commission, 26 September 2006, "Commission confirms Bulgaria's and Romania's EU accession on 1 January 2007, completed by a rigorous package of accompanying measures," link at <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/06/1257&format=HTML&aged=0&language=EN&guiLanguage=en>.

## COPYRIGHT PIRACY IN BULGARIA

**Internet piracy:** There are now 4 million Internet users in Bulgaria, representing about 55% of the population (according to [www.internetworldstats.com](http://www.internetworldstats.com)). Over the past two years, Internet piracy has become much more problematic than hard goods piracy. Copyrighted material is being downloaded from certain accounts hosted on servers managed or controlled by some local ISPs. On the other hand, “warez” sites have significantly diminished and those few sites that have been encountered prove to be hosted on servers located abroad. Offering access to illegal content in the free-hosting area has shifted towards widespread peer-to-peer (P2P) file sharing. Large BitTorrent sites such as [arenabg.com](http://arenabg.com), [zamunda.net](http://zamunda.net), [torrentvalley.com](http://torrentvalley.com) are operating entirely in the “grey” sector of the Bulgarian economy. These sites allegedly pay no taxes yet generate revenue from an immense network of connected advertising companies that use the sites for commercial advertising. All LANs raided in the past year were also infringing the Bulgarian tax regulations. Some of the owners of the LANs and the FTP servers with huge quantities of protected content – music, film, software – have a criminal history and were engaged in various illegal activities.

The film industry in Bulgaria, led by BULLACT, reports that the film market is diminishing. There are only 80 rental shops left countrywide of which around 50 are operating. Sales of physical copies have dropped dramatically and local distributors sell around 300-400 copies of box-office movie titles. Internet piracy, especially P2P, is estimated at nearly 100% and is suffocating the film industry. Pre-release Internet piracy no longer spares local creators and producers as Bulgarian movies are also made available in the Internet.

The recording industry in Bulgaria, led by BAMP, reports that the music market is in dire condition. Sales of physical copies of recorded music are dropping significantly. Legitimate sales of local releases barely ever reach 5,000 copies. Internet piracy of recorded music is nearly 100%, and is suffocating any new business endeavors. Pre-release Internet piracy also seriously damages local creators and producers.

The Business Software Alliance (BSA) indicates that Internet piracy, especially P2P, affecting the software sector also worsened last year, and is fast becoming a major threat. Another widespread form of Internet piracy is the making available of copyrighted material through the so-called Local Area Networks (LANs), using hidden FTP servers with huge illegal content is the favorite business model of LANs.

The Cyber Crime Unit of the GDCOC in early 2007 tried to address the P2P threat and issued protocols of warning and instructions to several portals to take down their pirate torrent tracking sections. Two such sites, [www.zamunda.bg](http://www.zamunda.bg) and [www.arenabg.com](http://www.arenabg.com), did not comply with police instructions and were raided in March 2007. Criminal proceedings were initiated against the owners of these sites but progress has been very slow. These two cases triggered a media debate which revealed that some political officials openly challenged both the government’s and the creative industries’ effort to fight widespread Internet piracy. For example, in May 2007, a Member of Parliament promoted free access on the Internet and the use of notorious BitTorrents sites as platforms for political messages. During 2008, the Cyber Crime Unit, with the assistance of prosecutors and information provided by the film, music, and software sectors, organized regular raids against LANs and torrents trackers. In November 2008, the Cyber Crime Unit ran raids against 2 LANs (OptiNet and ComNet) in the city of Yambol, finding and seizing 8 Terabytes of illegal content on these servers. According to media reports, the owners of those LANs were municipal officials; the chair of the municipality council himself and the Mayor were involved in these illegitimate businesses.

In 2008, the Cyber Crime Unit, following signals of the film industry, called six administrators of torrent sites to a meeting and warned them in writing to shut down their sites. Taking the order into consideration the sites shut down for a day or two but then reappeared under slightly modified addresses. Only one shut down permanently. On the request of BULLACT, the Dutch anti-piracy organization, BREIN, also succeeded in closing down the torrent sites that were hosted by the Dutch server, LEASEWEB. However, these torrent sites relocated their servers .

**Hard goods piracy:** Physical piracy is no longer the primary piracy threat in Bulgaria, although it can still be readily found. The decline in optical disc piracy is due to the expansion of Internet-based piracy. There is no evidence that the 8 functioning optical discs plants in Bulgaria are engaged in illegal production; for many years, factory-pressed products had been the big problem in Bulgaria, but that has diminished since the 2006 passage of key amendments to the Optical Discs Act and its implementation in 2007. Burned optical discs (meaning CD-Rs and DVD-Rs containing infringing materials) are the

predominant form of hard goods piracy, and much of the source material for these CD-Rs and DVD-Rs comes from the Internet. Thanks to sustained pressure against street piracy in Sofia, BAMP reports that pirated sound recordings have virtually disappeared from the notorious Slaveykov square, while pirated films can still be found in the streets. However, unlike the situation in Sofia, street piracy is still a major problem at the Black Sea resorts and the skiing resorts in Bulgaria, such as Borovetz, Bansko and Pamporovo. Burgas being one of the most visited summer resorts, continues to keep high levels of hard goods piracy, while the biggest Black Sea resort of Slanchev Briag is still the heart of illegal commerce with counterfeit and pirated goods. Even though raids do take place there, enforcement efforts remain largely symbolic and without a lasting effect.

For the software industry, the use of unlicensed software by end user piracy (especially by the small and medium enterprises) and the distribution of pre-installed unlicensed copies by system builders (hard disk loading) piracy are unique and the most harmful forms of piracy in Bulgaria. In 2008, the practice of offering for sale assembled PCs with pre-installed unlicensed business software continued to be a predominant code of conduct among local system builders that was confirmed by a number of successful test purchases and follow-up police raids. As mentioned above, Internet piracy is growing. BSA believes that the recent insignificant reduction of the business software piracy levels is not necessarily an indication of improvement – just the opposite, it sends out the message that either there is no political will to fight piracy or there are not sufficient resources to achieve tangible results. This, apart from the ineffectiveness of IPR enforcement, directly relates to two other factors influencing piracy: the lack of public awareness and support for anti-piracy measures and widespread political and public tolerance towards all forms of piracy.

## COPYRIGHT ENFORCEMENT IN BULGARIA

The Council on Intellectual Property Protection needs to achieve results: The Council on IP Protection at the Ministry of Culture was created in January 2006, and is the most important interagency coordination body and facilitator for dialogue with the private sector. However, in 2008 the direct dialogue of the IPR Council with the industries was seriously interrupted. A new body – the Consultative Committee on IP matters (“The Committee”) – was created within the office of the Deputy Minister of Culture which had the unhelpful effect of cutting off the private sector’s direct participation in the sessions of the IPR Council. In addition to the lack of transparent rules on the membership of this Committee, several attempts by the copyright industries to bring some of its proposed initiatives to the attention of the IPR Council (such as the “Tax Initiative”) failed because the agenda of the Council entirely depends on the sole discretion of the Deputy Minister of Culture. The poor consequences of the new organization were pointed out to the Deputy Minister, the IPR Council members, and the Minister of Culture himself, but the ban imposed on the industries’ direct participation within the Council has not been lifted.

With the involvement of the copyright sector the Council should build a solid long-term strategy for legislative reform and IPR enforcement and regularly report to its members on its action plans and results. Copyright groups are receiving mixed signals from the Ministry of Culture. On the one hand, following requests from rights holders groups, the Council did include Internet piracy on its agenda and both the Minister of Culture and the Deputy Minister have been positive about the concept of ISPs cooperation in combating online piracy. On the other hand, neither the Committee nor the Council seriously addressed the issues of Internet piracy and ISP cooperation. As a result, there is a complete lack of tangible results in these areas.

Given the growth in Internet piracy in Bulgaria, the active copyright industries in Bulgaria have focused much of their local work on issues related to criminal and civil enforcement of Internet piracy cases.

**Low cooperation from the ISP community:** The Bulgarian IPR legislation and legislation related to ISP liability are compliant with EU *acquis communautaire*. However, it is of the utmost importance that the Bulgarian government acknowledges the vast availability of illegal content online that is occurring via local ISPs and encourages specific forms of cooperation with the ISPs to address the Internet problem.

There has been some progress in working with Bulgarian ISPs with respect to Internet piracy in the free hosting environment. For a number of years, BSA has been issuing notice and takedown requests to ISPs, with relatively good results. Unfortunately, similar cooperation with the ISPs in the P2P file-sharing environment cannot be reported. ISPs are reluctant to work with the copyright sector on this issue and to provide assistance, and instead rely on the principle of “neutrality of the infrastructure” as a basic concept of the EU Telecom package and the relevant Law on Electronic Communication in Bulgaria, as well as the ISPs’ limitations on liability in the EC Directive on Electronic Commerce and respectively the Bulgarian Law on

Electronic Commerce. There is no specific legislation that affirmatively encourages ISPs' cooperation with copyright rights holders.

BULLACT also has experience with take down notices, however the results are not encouraging. Some torrent site administrators do not delete the link mentioned in the request, resulting in the request being only temporary as the title is again uploaded within 24 hours. Other administrators directly refuse to comply with the notice using the argument that the site is registered abroad and therefore does not fall under national jurisdiction, or that the actual infringers are those who upload or download the illegal content.

The copyright industries, led by the local music and software sectors, have sought to initiate communication with the telecommunication and ISP community and to suggest the introduction of legal business models for access to copyright content on mobile platforms or on the Internet. The government should take concrete steps to encourage communication with and cooperation from the IT sector / ISPs in the fight against Internet piracy. A December 2008 event, "Round Table on Content and Internet – the Cooperation between Right-holders and ISPs", initiated by a Bulgarian Member of the European Parliament and financed by the Group "Alliance of Liberals and Democrats for Europe" (ALDE), provoked much interest from a large number of organizations and institutions both from the public and private sector. At this event, it was agreed that in early 2009 representatives of the content providers' organizations, the Bulgarian Association for Electronic Communications (the association of the major ISPs) and other non-governmental organizations, under the auspices of the State Agency for Information Technologies and Communication, will commence negotiations for drafting a Memorandum of Understanding to establish institutionalized cooperation for countering Internet piracy. The State Agency for Information Technologies and Communication and its director made a commitment at the December Round Table to facilitate and actively participate in the negotiations between the content and the service providers. Similarly, the Cyber Crime Unit with the Ministry of the Interior and its Chief Inspector also have been urging the ISPs to work with the copyright industries in assisting the enforcement agencies in the investigation and prosecution of cyber crimes and Internet piracy.

**No active support in 2008 from the government in terms of ISP liability / cooperation:** Prior to the reactions coming out of the December 2008 Roundtable (above), there has been no significant support on behalf of the government to facilitate negotiations and cooperation between the IPR holders and ISPs. Despite the fact that the Internet piracy problem has been consistently raised by the private sector, only one session of the Council for IPR Protection was dedicated to Internet piracy, and there were no tangible results.

The copyright sectors have been working over the years with various Bulgarian agencies on Internet anti-piracy cooperation. For example, to provide formal assistance to the Ministry of Interior's enforcement agencies at the end of 2004, BSA together with the other copyright sectors like BAMP and BULLACT, signed a Memorandum of Understanding and Cooperation with the Ministry which resulted in a joint strategy to fight Internet piracy. In 2007, two addendums to this Memorandum, one with the National Police Directorate (Economic Police) on the Police Direct Contact (PDC) program, and the other with the GDCOC, provided, for example, the donation of technical equipment and assistance in the investigation of software and cyber crimes; unfortunately the PDC program was abandoned by police headquarters. Finally, as mentioned above, the copyright sectors have joined a working group to draft a Memorandum of Understanding and Cooperation with the major ISPs association for combating Internet piracy, and this work will commence in early 2009. No meetings have been held yet but they will be organized shortly.

**Data retention problems will undermine criminal Internet enforcement:** A troubling development in late 2008 appears to have created a legal vacuum by shutting down any and all enforcement against online piracy by preventing law enforcement or right holder access to data retained by ISPs. Unless this is somehow reversed, this development appears to eliminate criminal remedies by the State, which would be effectively unable to obtain such information from ISPs. This clearly must be corrected.

On December 11, 2008, the Supreme Administrative Court (5 judges) revoked Article 5 of Governmental Ordinance Number 40<sup>5</sup> of the Ministry of the Interior and the State Agency for Information Technologies and Communication. This ordinance implemented Article 251, paragraph 2, of the Bulgarian Act on Electronic Communication ('AEC'), which was

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<sup>5</sup> Ordinance Number 40 of 7 January 2008 on the Categories of Data and the Procedure of their Preservation and Making Available by the Enterprises, Offering Public Electronic Communication Networks and/or Services, for Purposes Related to National Security and Criminal Enforcement.

Bulgaria's implementation of the EU Data Retention Directive. This article placed an obligation on ISPs to provide to law enforcement agencies' data on electronic traffic and messaging. The data was supposed to be retained by telephone companies and ISPs as necessary for the purposes of criminal prosecution or national security. The revocation was based on the Court's view that this provision violates constitutional rights. This is a very dangerous court precedent in favor of the ISPs' claims that enforcement by the private sector in the Internet space will threaten personal rights and constitutional freedoms. This decision, unless reversed, will become a major impediment to the successful collection of information on instances of infringement and identification of the suspected infringers and will curtail the investigation of all Internet-related crimes; now not even the police will have access to this data. New draft amendments to the AEC are currently under consideration at the Bulgarian Parliament. There is a debate around the question of whether the police would have access to the data retained by the ISPs, which could result in the adoption of a complicated procedure. Bearing in mind the specific nature of copyright infringements via the Internet, this would seriously impede the police investigation process.

**Criminal and administrative actions in the Internet space:** The Bulgarian Penal Code, and particularly Article 172a (as amended in August 2006), contains the necessary legal provisions for the criminal prosecution of Internet piracy. Some legal and practical difficulties do arise when investigating P2P cases where the criminal liability of the network administrators and relevant ISPs may be involved (pursuant to Article 21 of the Penal Code) on the grounds of their acting as accomplices in the criminal activities of uploaders that make protected content available for online access and downloading. BSA reports that the investigation of the first such cases that were initiated back in 2006 and 2007 have still not yet been decided by the criminal court even though these cases are of immense importance to combating Internet piracy. Criminal investigation and prosecution of administrators and owners of FTP servers with illegal content within LANs are more common and seem to be less complicated and yet there is no significant court practice on such cases that would give reason to claim that there are no legal obstacles in fighting that form of Internet piracy.

**Good work with Cyber Crime Unit:** The film, recording, and business software industries continued to enjoy constructive and productive relationships with the Cyber Crime Unit in 2008. The Ministry of the Interior and the head of the Cyber Crime Unit in particular, are fully dedicated to their tasks and excellent partners in the fight against copyright crime, including Internet piracy. Recent structural changes within the Ministry were discussed for the purpose of enhancing the ability and capacity of the Cyber Crime Unit and turn it into the most efficient IP enforcement body in Bulgaria. Pursuant to the latest structural changes within the Ministry of the Interior, and despite some plans to have it relocated to other less effective offices within the Ministry, the Cyber Crime Unit managed to keep its structural position and competence for the time being. It is now a body within the Directorate "Counteraction to Organized and Serious Crime" (previously known as the General Directorate to Combat Organized Crime), at the General Directorate "Criminal Police." The need to improve communication with prosecutors and to establish uniform best practices regarding the fight against IP crimes was incorporated in this shift. However, industry suggestions to broaden the scope of competence of the Cyber Crime Unit and to enhance its administrative capacity with additional personnel remained without a concrete response.

The Cyber Crime Unit has to be credited not only for the enforcement actions against notorious torrent trackers and large LANs across the country, but also for their day-to-day work with the private sector and the ISPs aimed at diminishing the availability of illegal copyrighted material over the Internet. This Unit also is in charge of counteracting against all types of Internet related crimes and offences such as phishing, financial fraud, child abuse and pornography, but manages to maintain good balance in its work countrywide. In addition, the industries note the good work of the Sofia Investigation Services in investigating the Internet piracy cases that are within its competence (the P2P piracy cases); its work is good but unfortunately its investigations were impeded by supervising prosecutors thus undermining the overall efficiency of the work of the investigators.

BSA enjoys excellent cooperation with the Cyber Crime Unit which has resulted in steady and intensive police enforcement against Internet piracy and larger end user targets. In 2008, the BSA assisted Bulgarian authorities in conducting 17 enforcement actions among which: 7 Internet ones conducted by the Cyber Crime Unit against LANs and torrent trackers; 4 end user raids, 2 of which conducted by the Cyber Crime Unit and the other 2 by economic police officers of the regional PDs; 4 hard-disk loaders raids, 3 of which conducted by the regional economic police officers and 1 with the tax authorities followed by civil litigation against the offender; and reseller raids conducted by the economic police officers. In addition, 355 referrals to the police for warning letters and protocols within the context of the PDC program were made, but the police refused to provide

feedback on the number of protocols<sup>6</sup> that have actually been issued. BSA local counsel also sent out 145 notice and takedown letters to ISPs and 514 warning letters to end users.

The recording industry reports that during 2008, it worked with the Cyber Crime Unit on actions that resulted in 15 raids that interrupted the sharing and distribution of more than 75 terabytes (TBs) of illegal content – music, films and software. More than 200 FTP servers, computer configurations, laptops, screening servers and hard disk drives with illegal content were seized. Some of the most successful attacks were against:

- LAN in Dobrich – 12 FTP servers with 25 TBs of protected content – music, films and software were seized, and a criminal investigation has been initiated;
- LAN in Varna – 21 computer configurations confiscated with 15 TBs of illegal content; in addition to the penal code investigation, the tax authorities have started their own investigation;
- ISP in Haskovo – 4 FTP servers with 6,5 TBs protected music, film and software were seized;
- LAN in Chirpan – 1 FTP server with more than 3 TB illegal content (music, movies, software and pornography) were found and seized
- LAN in Pleven – 1 FTP server with 3 TBs of protected content and 72 computer configurations with illegal software were seized;
- 2 LANs in Yambol – 8 units of FTP servers with more than 7 TB (terabytes) of music, movies and software, distributed without the permission of right holders were found and seized.
- On November 11, 2008, officers from the Cyber Crime Unit of the Directorate “Counteraction to Organized and Serious Crimes”, acting on evidence from BAMP, shut down the site [www.torrentvalley.com](http://www.torrentvalley.com). As a result, the Bulgarian authorities stopped the free distribution of more than 1,000,000 illegal torrent files with films, music, software, books, animation movies, games and pornography. End-user access to 5,000 torrent trackers from around the world was thus prevented.
- Thanks to sustained pressure from the Bulgarian authorities in 2008, the illegal site [www.GepiMp3.hit.bg](http://www.GepiMp3.hit.bg) was closed and the ISP [www.bol.bg](http://www.bol.bg) terminated the illegal distribution of protected content of its free server.

Also, BAMP addressed the three major telcos – Vivatel, Mtel Globul, with letters urging them to interrupt phone accounts related to SMS payments of illegal traffic or access to protected music content without the consent of the right-holders.

BULLACT has sent 44 take down notices to torrent tracker sites. Sixteen warnings against torrent tracker sites were sent to the Cyber Crime Unit. The prosecutors denied to initiate eight magistrate cases on different grounds. The remaining eight are still under investigation.

Fewer actions with the economic police: BSA has enjoyed relatively good cooperation with the regional economic police sections of the Ministry of Interior which has resulted in handling physical piracy, hard disk loading and smaller end-user cases. Unfortunately in 2008, software anti-piracy enforcement undertaken by the economic police worsened. This could be for any of several possible reasons. First, the reduction of physical piracy cases in the major cities and the ineffectiveness of economic police officers to effectively attack pirate OD resellers at the winter and summer resorts may have been due to corrupt practices and political pressures. Second, the role of the police diminished in hard disk loading cases because many of these cases usually involved a small number of unlicensed copies of business software, and these cases are often dropped by prosecutors as minor ones. BSA is working on establishing cooperation with the tax authorities for joint administrative/civil litigation of that type of unauthorized use. Third, there is no IPR sector at the Economic Police Headquarters to supervise and provide methodological assistance to the regional economic police sections. Presently there is only one person at the headquarters who is designated to handle the large volume of work related to enforcement of both copyright and industrial property rights. Fourth, there is insufficient administrative capacity and lack of qualified and trained personnel and adequate technical equipment and support, both centrally and regionally, as well as a shortage of funds for outsourcing specialized technical assistance and forensic expertise for the investigation of IPR crimes.

Given the problems noted in software cases with the economic police, in 2007 BSA suggested an upgrade of the highly efficient “Police Direct Contact” program called PDC II. A Memorandum regarding this upgrade was signed in February

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<sup>6</sup> The protocols are very similar to warning letters but instead of being sent out by the rights holder, they are issued to the alleged offenders by the police on the grounds of Articles 55 and 56 of the Law on the Ministry of Interior, and as a result, convey a strong message to the targets.

2007, setting up high expectations for improved results from business software legalization efforts. To recap, the PDC is an enforcement program that involves issuance of protocols of warning and instructions to alleged offenders pursuant to leads provided by the BSA. As explained above, the protocols are very similar to warning letters but are in fact issued by a state authority, i.e. the police, within their powers to prevent crime. The protocols do not entail police raids, seizure or prosecution but inform the managers of companies that are allegedly using unlicensed business software on the criminal liabilities that such activities could bring about and instruct them to cease such incriminated activities and legalize their software use. Ever since 2002 when this program was initiated it has produced immense legalization of business software used by small and medium enterprises and together with this saving administrative resource both of the police and the judiciary that would have been involved in lengthy criminal proceedings. Unfortunately, another year passed and, without any explanation and even after the necessary technical equipment was provided, the Headquarters of the Economic Police refused to execute the Memorandum and thereby abandoned the entire PDC program.

BAMP also reports that it submitted seven claims to the Economic Police and its regional departments in the country. The Economic Police units organized 12 raids against hard goods piracy, resulting in 13,632 burned CD-Rs and DVD-Rs were seized in these operations.

**Administrative enforcement brings mixed results:** The Law on Copyright and Neighboring Rights provides that administrative remedies to counter piracy are available (Article 97). Results were mixed in 2008, varying by industry.

BSA reports that no administrative cases have been conducted by the Ministry of Culture Inspectorate and a few *ex officio* police actions on other crimes but also involving business software offenses have been conducted and reported to the BSA. In 2008, the Inspectorate of the Directorate conducted not a single operation against business software violations. The random occasions of inspections at cyber cafes and Internet clubs that happened in 2007 disappeared altogether in 2008.

On a more successful note, BULLACT reports that 62 raids against cable operators were conducted jointly by BULLACT and inspectors of the Copyright Department with the Ministry of Culture, as well as 5 raids against hotels for illegal transmission of TV programs. A total of 62 administrative protocols ascertaining the infringements were drawn up and 40 resulted in administrative fines. In this fight against signal theft piracy, the number of administrative raids against cable operators have tripled in comparison with 2007 (18 raids in 2007 and 62 in 2008). Fifty-five Internet cafes and clubs were raided by the same administrative authorities, and 46 administrative fines were imposed for illegal use of entertainment software.

Where it concerns administrative enforcement in the field of public performance, the recording industry reports enhanced action. Finally, the Culture Ministry used its competence in this field and organize a series of inspections of pubs, restaurants, bars and other public places where recorded music is being played. The inspections received wide media coverage. The findings of these inspections make a strong case for the introduction of music licensing requirements in the Bulgarian Tourism Act (see below).

**Problems with prosecutions — too few case, too slow:** Both the business software and music industries believed that during 2008 the Supreme Cassation Prosecutor's office and particularly the Deputy Prosecutor General, Mr. Kamen Sitniski and his team, remained dedicated to IPR protection and are motivated to address copyright piracy. His work is appreciated. However, in terms of overall enforcement results, the work of the entire judiciary remains a major problem.

Bulgarian prosecutors fail to conduct expeditious and effective investigation and prosecution of IPR crimes. Prosecutors create considerable delays in criminal enforcement immediately after police conduct raids. BSA reports that prosecutors and judges undermine software infringement prosecutions through perverse evidentiary decisions, such as returning critical evidence (like seized computers and hard-drives) to defendants, or refusing to admit such items into evidence even though they are properly seized. In a number of cases, prosecutions have been abandoned altogether without cause. Prosecution and court proceedings are extremely slow, formalized and heavy. There remains a concern that corrupt practices are still affecting some case outcomes, and that these officials may be liable to influence in software infringement cases. In some instances, political protection has impeded the successful prosecution of software cases.

Despite some positive developments within the Supreme Cassation Prosecutor's Office in 2006 and 2007, the new management's approach has not yet reached the regional level where the IPR crimes are actually investigated and prosecuted. Prevalent are District Attorneys' offices and regional courts which (i) are not willing to address and pursue software crimes; (ii)



lack uniform procedural practices; (iii) lack knowledge and experience in copyright infringements resulting in dropping cases without valid grounds, slow and overly formalized procedures and inadequate and non-deterrent judgments. For example, BSA experienced negative practices of prosecutors from the Plovdiv District Attorney's Office related to the implementation of Article 172a of the Penal Code; last summer there was an investigation and a resulting raid which appears to have subjected to a leak prior to the raid.<sup>7</sup>

To address these problems regarding prosecutions, BSA, BAMP, the head of the Cyber Crime Unit, and the Deputy Director of Sofia Investigation Services met with the Prosecutor General in October 2008. Several key points were discussed. First, the main topic was how to stimulate the effective development of the three emblematic cases against the torrent-trackers such as [www.arenabg.com](http://www.arenabg.com) and [www.zamunda.net](http://www.zamunda.net). These cases were the result of the Cyber Crime Unit/BAMP/BSA joint raids in May 2006 and March 2007. The Cyber Crime Unit and the Sofia investigation office have both terminated their activity and collected the necessary evidence. Nevertheless, the cases are still pending in the preliminary investigation phase without being processed to the court due to the prosecutor's ambiguous attitude. It was decided that BAMP members – licensees of the major music companies - were to be once again interviewed by the chief investigator in order to give further impetus to the case. Second, a joint proposal for the creation of a special Task Force Unit was drafted and ready to be proposed at the next meeting of the Council on IP Protection. The Task Force Unit is going to bring together representatives of the Supreme Prosecution Office of Cassation, the Cyber Crime Unit, the Investigation Service and the Tax Authorities within the ministry of Finance. The Task Force Unit initiative has now been presented for approval to the Council on IP Protection. Third, the Chief Prosecutor accepted to send an official instruction to the competent regional offices in order to get them to use the Guidelines for Uniform Practices on IPR cases. Information and examples of discrepancies and problems within the current prosecutors' practice regarding IP protection were provided by the copyright sectors. Additional expertise on the incriminated torrent trackers was prepared and processed to the attention of the Deputy Chief Prosecutor. More concrete follow-up on all these matters is needed.

Very few deterrent sentences: Because most IPR cases are terminated or dropped at the preliminary investigation stage, there is not sufficient amount of results to validate any trend. It does appear fair to say that of those trials that have been completed, the verdicts leave the impression that judges impose low and non-deterrent sanctions. The random distribution of cases as an anti-corruption tool has a negative effect on the sustainable capacity of the judges to deal with this very specific type of legislation.

BSA reports that in 2008, only 6 of its criminal cases (which involved 2 LANs (Internet), 2 end user and 2 hard disk loading cases) reached a verdict of the first instance criminal court (5 sentences and 1 plea bargain). Four of them are final and the other two have been appealed and are currently pending before the upper instance court. Unfortunately none of the sentences impose deterrent sanctions; the usual sanctions were as low as 3-5 months suspended imprisonment and a fine in the average amount of 500 BGN (US\$330). BSA also notes that many software cases in 2008 were dropped at their preliminary investigation stage; prosecutors very often do not deem it necessary to notify BSA about their motions of terminating software

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<sup>7</sup> BSA local counsel filed a criminal complaint (№ 12197/2008) at the registrar of the General Directorate to Combat Organized Crime at the Ministry of Interior regarding information on the use of unlicensed copies of software published by BSA member companies on behalf of a big end user company in the town in Plovdiv. This company is one of the largest in Bulgaria offering technological solutions in the field of ventilation, air-conditioning and refrigeration systems, and working with a large number of highly qualified personnel. The type of business of the company requiring the use of high technologies for design and manufacture of its products also necessitates the implementation of various exceptionally expensive computer programs, including such owned by BSA members. On July 1, 2008 the materials from the police raid conducted upon BSA's criminal filing were reported to the Plovdiv DA's Office with an assessment for initiation of criminal proceedings for a crime under Article 172a of the PC against the owner and manager of the company. The Plovdiv District Attorney, however, refused to initiate preliminary proceedings on the grounds that there was not enough data available and ordered an additional inspection by Plovdiv police department. On July 2, 2008, pursuant to the DA's instructions officers of the GDCOC assisted by officers of the regional unit of the GDCOC conducted a raid on the premises of the company offices. During the operation, only 15 computer systems were found there (BSA preliminary data indicated there were over 30 PCs) with only copies of Windows XP installed on them. The police requested documents certifying the legitimate acquisition and use of this product and were provided with invoices for the purchase of 15 licenses for Windows XP dated July 1, 2008. Moreover, the additional inspection of an IT expert indicated that those computer programs had been installed on the PCs in the time frame between 16.00 and 24.00 hours on July 1, 2008. When asked why there were no files on the operating PCs, the company staff gave the absurd explanation that upon completion of each document, it was printed out and deleted from the PC's memory. In the remaining office premises, including the ones in the design and construction department of the company, the PCs were missing notwithstanding this fact, some electricity cables for PC configurations could be seen. Upon completion of the raid, the materials were reported to the District Attorney who instructed a further inspection, namely the verification of all company clients whose projects have been completed and manufactured, with a view to establishing the use of unlicensed software. No data is yet available whether this case has been further investigated which raises grounded suspicions as regards the impartiality of the prosecutor as well as the efficiency of practices of this Office.

criminal cases. Furthermore, despite the relatively good number of enforcement actions against various forms of Internet piracy in the period 2005 – 2008, only few cases have reached the court and only one has been completed with two final verdicts against the two defendants (probation for one and 5 months suspended imprisonment and a fine of 500 BGN for the other). This paucity of cases sends a bad message indicating lack of political will and capability on behalf of the Government to deal with this new problem.

The recording industry reports that many cases are dropped at the preliminary investigation stage. Furthermore, very often right holders are not duly notified by the prosecutors about their motions of terminating the proceedings. Only one criminal case has reached a verdict in 2008 – criminal proceedings opened following a raid against OD reseller in the town of Plovdiv have been completed with a plea bargain at the Regional Court of Plovdiv (9 months probation for the defendant imposed).

**“Tax initiative” proposed by the business software industry:** BSA reports that almost all software cases initiated in 2008 (as well as in previous years) are linked with serious tax violations. BSA suggests that Bulgaria implement measures, both legal and practical, that would utilize the tax authorities’ administrative capacity to reduce the acquisition and use of unlicensed software and thus by countering software piracy increase the tax revenues. Besides tax violations, IPR crimes frequently go along with child pornography, terrorist propaganda, and other grave violations of basic human rights. It is very often the case that the easy profits gained at low risk from piracy by organized criminal groups are used to finance multiple other illegal activities.

Given the limited administrative capacity of the government enforcement authorities primarily responsible for IPR enforcement, alternative approaches for increasing the efficiency of IPR enforcement should be sought. BSA points out that best practices in some neighboring countries such as Greece and Serbia have proven that involving the tax authorities in checking the software license compliance within the routine tax inspections produces tangible results in terms of business software legalization and reduction of software piracy rates. The implementation in Bulgaria of these best practices, referred to as “Tax Initiative,” would assign secondary enforcement responsibility to the tax inspectors (there are approximately 300 tax inspectors across this country). This would help offset the insufficient administrative capacity of both the police and the Ministry of Culture with fast administrative procedures and would relieve the judiciary from investigating and prosecuting some (not all) criminal software cases.

**Collect public performance income:** Enforcement related to public performance presents another problematic area for the collecting societies in Bulgaria. In late 2007, the Ministry of Culture started a strategic program of enhanced attention to this problem, especially focused on the tourist sector. In line with the new policy guided by the Deputy Minister, in 2008 the Inspectors of the Ministry organized 265 administrative checks within their competence and prepared 265 relevant protocols testifying infringements, as well as 295 inspections. Further to these inspections, 227 acts establishing administrative violations and 144 criminal decrees were issued and administrative sanctions were imposed.<sup>8</sup>

Despite this enforcement effort, the majority of hotels, discotheques, night clubs and bars all over the country still remain out of the scope of application of the Copyright Law and as a result, continue to generate massive losses for the music sector. Sustained enforcement actions are required in order to create better awareness among users about their obligation to pay for public performance of recorded music. The situation shows the urgent need to adopt relevant legal amendments in the Tourist Act that would enable the practical enforcement of the Copyright provisions related to public performance.

The music industry notes that, in general, more than 90% of the broadcasters - radios and TVs have already contracts with the collecting societies, thus showing respect for the law. However, a large group of users -- the cable industry -- still continue to disregard the copyright law. Law enforcement agencies should take action.

**Prosecutors Manual on IP Procedures:** The local copyright industry groups worked together to press for setting up a working group with experts from the Supreme Cassation Prosecutor’s Office for developing unified procedural practices for prosecutors in the investigation and prosecution of IPR related crimes. The booklet was published in October 2007 and was to

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<sup>8</sup> The protocols testifying infringements followed by acts of establishment of administrative violations committed are the administrative instruments issued by the competent administrative authorities and are aimed at ascertaining the act of infringement committed by the offenders. Following the issuance of the acts of establishment of administrative violations committed, the Ministry of Culture issues the respective penal decrees whereby the relevant administrative sanctions are imposed to the offenders.

be circulated among the DA's Offices as guidelines for prosecutors on how to work on IPR cases. However, despite the expectation of the private sector and the agreements reached that it should be circulated by the Prosecutor General as a set of mandatory instructions, this did not actually happen. As a result, this manual remains in a very ambiguous legal position, with no guarantees that it would achieve its final goal to unify the practices in the investigation and prosecution of IPR crimes. A new commitment to that effect was made by the Prosecutor General in October 2008 and its execution is still expected.

## **COPYRIGHT LAW ISSUES IN BULGARIA**

**Problems with implementation of the EU Data Retention Directive:** Bulgaria adopted the Act on Electronic Communications ('AEC'). Chapter 15 of this law contains provisions on security of electronic communications and on the relevant protection of user's data. The act transposes the EU Data Retention Directive and stipulates that, because of national security concerns and the detection of crimes, some categories of data have to be retained by the providers of public electronic communications networks and/or services. Further to Article 251(2) of the AEC, a joint Ordinance by the Ministry of Interior and the State Agency for Information Technology and Communications had to be adopted. In 2008 this article of the Data Retention Directive was implemented in Ordinance No. 40, issued by the Ministry of the Interior and the State Agency for Information Technologies and Communication. Discussed earlier in this report is the stunning news that on December 11, 2008 the Supreme Administrative Court abolished Article 5 of Ordinance No. 40 which required ISPs to provide law enforcement agencies with data on electronic traffic and messaging, all part of the EU Data Retention Directive. This court decision will be a major impediment to the successful collection of information on instances of infringement and identification of the suspected infringers which as a whole will impede the investigation of all Internet related crimes.

**Legislative reform regarding public performance rights and collecting societies:** A major legislative concern for the recording industry for the past two years involves efforts by broadcasters to amend, and undermine, Article 40 of the Bulgarian Copyright Act, which deals with collective rights management. Fortunately, this initiative to change this article was withdrawn in 2008. On a positive note, the licensing requirements for broadcasters now include signed contracts with the collecting societies.

Adoption of the respective legislative amendments in the Tourism Act that would enable effective enforcement of the Copyright Act provisions related to public performance (see section below) is needed. Legislative amendments in the Copyright Act that need to eliminate the present loophole whereby the public performance of sound recordings remains out of the scope of the administrative sanction provisions of the law still remain unresolved and need further consideration. Since then, the music industry has sent alternative proposals to the Ministry of Culture on how to change the Copyright Act. It is also necessary to harmonize other laws, such as the Radio and TV Act and the Tourism Act, to address this public performance issue.

**Tourism Act:** The need to amend the Tourism Act, adopted in 2002 and lastly amended in July 2008, is of major importance for the whole collective management system and the sustainable development of the music sector. Since the beginning of 2007, the music industry (led by BAMP) and the collecting societies have pressed for amendments to the Tourism Act that would guarantee better enforcement related to the public performance, in particular in hotels, bars, restaurants and discotheques. BAMP and the collecting societies succeeded in introducing adequate provisions regarding the public performance in the body of a draft bill submitted by Bulgarian MPs – the need for hotels, restaurants and other tourist places to present contracts with the collecting societies as a prerequisite and condition for obtaining the relevant tourist license. This amendment is of the utmost importance to the music industry in Bulgaria. It would guarantee fair treatment of all users (it is important to note that similar licensing requirements already exist in the Radio and TV Act), effective public performance copyright enforcement and it would promote a more transparent and competitive business environment. However, the resistance of the entire tourist sector is ferocious. The Minister of Culture is fully supportive of the music industry proposal and on several occasions defended them within the Council of Ministers. The Bill, which was submitted by several MPs, has passed its first reading but legislative consideration is suspended while waiting for a similar bill to get adopted and processed by the Council of Ministers.

**The Radio and TV Act:** The 2005 amendments to the Radio and TV Act (in late 2005) properly provided for obligatory contracts with the collecting societies as part of the license/registration package of any broadcaster to be presented to the Council of Electronic Media (CEM); these provisions were implemented in 2007. As a result, CEM has to inform the

Ministry of Culture on the results of its inspection. Unfortunately, CEM lacks the competence to monitor the implementation of the relevant copyright obligations by the broadcasters, let alone the right to impose sanctions in cases of infringement. As a result, more amendments to supplement the Radio and TV Act have been under preparation in order to establish legislative harmony with the Act on Electronic Communications. The latest 2007 amendment of the Radio and TV Act focused solely on harmonization with the Act on Electronic Communication. The music sector had proposed additional amendments that would involve CEM in copyright enforcement and monitoring and would provide for better IPR protection in the broadcasting environment. However, these were rejected by the Working Group within the Ministry of Culture tasked with drafting the amendments. Amendments to the Law in this respect would be greatly appreciated, but they are not expected to materialize in 2009, bearing in mind upcoming elections.

**Tax Initiative:** BSA believes that the introduction of legislative amendments making possible the implementation of the “Tax Initiative” are of utmost importance for the software industry, as discussed above. BSA’s earlier amendments to the Law on VAT and the Law on Corporate Taxation were rejected by the Parliament when voting the so-called “budget package” but a new attempt will be made at the end of this year (2009) when this package is routinely put under consideration by the legislators. In the meantime, proposals for amending the Tax Procedure Insurance Code to the same effect (implementation of the “Tax Initiative”) are to be attempted in 2009. Above all however, the mandatory prerequisite for having this goal achieved is to form a political will that prioritizes IPR protection and utilizes all possible legal instruments for reducing the software piracy rate and creating a favorable environment for the legitimate software business and innovations.

**Civil Procedure Code (2008):** In March 2008 the new Civil Procedure Code came into effect which is expected to influence the civil litigation against copyright infringements. The new procedures, combined with the provisions of the Copyright Act that were introduced in early 2007 transposing the provisions of the Enforcement Directive, give legal grounds for civil litigation against all IPR infringements, including the ones conducted via Internet. It will likely take some time before the judiciary is ready to efficiently handle such cases; for example, this may be compounded by the recent court judgment affecting data protection. In 2007, BSA started a test civil case against a hard disk loader with respect there procedural elements. Unfortunately, due to the lengthy civil proceedings this case has not yet been considered on the merits and it is still early to evaluate the level of implementation and enforcement of these provisions in practice.

**Customs:** In general, communication between the music industry and Bulgarian customs officials is good, and the Bulgarian customs authorities make substantial efforts to control the EU external border (keeping in mind that Bulgaria is ranked third in Europe as to the number of illegal goods seized at the external border). Many rights holders in Bulgaria believe that the operational enforcement of Article 11 of the EU Regulation 1383/2003/EEC would enable the quick seizure and destruction of counterfeited and pirate goods by customs authorities. Article 11 of the Regulation requires a summary procedure for destruction of confiscated illegal goods within 10 days after the seizure. In order to enforce the Regulation, each member country is supposed to adopt a local piece of legislation – an act, ordinance or other legal instrument that would implement the Article 11 procedures. Bulgarian customs authorities unfortunately lack such a local instrument. On several occasions, BAMP has insisted before the Council on IP Protection on the needed adoption of relevant local legislation to implement this EU Regulation, but in 2008 there was no adequate response regarding this request.

**Criminal Code (2006):** One of the main legislative achievements in 2006 was the amendment to the Criminal Code criminalizing the storage (holding in possession) of “tangible carriers containing copyrighted material.” The creative industries’ hope and expectation that this amendment would bring a chain of enforcement actions against wholesalers of pirate ODs ending in court unfortunately were not realized. Sadly, another year has passed and the local industries report that, to the best of their knowledge, not a single verdict has been issued against OD resellers or for the storage of infringing copyright materials based on the new text of Art. 172a.

**The Optical Discs Act (2007):** The law regarding the manufacture and trade in optical discs, which the industries worked hard to pass and implement, still contains deficiencies. Efforts to strengthen the law were completed in 2006, and the law entered into effect on October 19, 2007. Unfortunately, the new amendments failed in their main purpose to ban street sales of optical disc media with copyrighted material. Another deficiency is that the amendments do not provide for increased powers of the state control bodies in conducting surprise inspections and seizing documents, samples, raw materials, manufacturing equipment, or matrices. Such powers are essential for the purpose of establishing evidence related to alleged infringements. The law also does not allow right holders and their organizations and representatives to participate in the inspections. However, in recent years the nature of piracy (Internet piracy, burning) has shifted such that infringing copies of

pressed optical discs are no longer a major problem, and even several DVD lines are closing due to low demand on the market for OD. The need for amendments to this law is no longer urgent.

## TRAINING AND PUBLIC AWARENESS

**More training needed:** Although the relevant legal framework to investigate and prosecute Internet piracy is in place, the judiciary in principle seem reluctant to enforce it properly. The lack of knowledge or understanding of Internet and the specific digital environment is amongst the reasons for the inefficient, clumsy and lengthy investigations. Prosecutors do not have enough logistical support nor the motivation to move faster on crucial cases. Further training of prosecutors on IPRs and the new digital challenges is needed, especially on uniform investigatory practices. The courts are another problematic area that calls for attention. Although very few cases have reached the court, the ones that have, face again the lack of specific knowledge and the indifference of judges.

The recording industry (represented locally through BAMP) and the business software industry (BSA) regularly conduct training for the law enforcement agencies and the judiciary, and also participate in conferences and seminars organized by local or international governmental and non-governmental organizations. During 2008, BSA local counsel participated in numerous trainings and seminars for police officers, customs officers, public prosecutors and judges as well as other regional international symposium where Bulgarian officials were in attendance. Similarly, BAMP officials participated in seminars on intellectual property enforcement, including those directed at Internet issues. For budgetary reasons BULLACT (representing locally the film, broadcasting, and entertainment software industries) cannot finance training on a large-scale for enforcement authorities but have remained consistent in taking part in conferences and seminars organized by other copyright industries.

**Public awareness:** Local public opinion, in general and especially the younger generation, appears to be tolerant toward copyright piracy and the free access to protected copyrighted content on the Internet. Raising public awareness against piracy is a challenge that needs special attention and a lot of additional efforts, both from the private and the public sector. In particular, it is important for the Bulgarian government to support country-wide pro-copyright education and anti-piracy awareness campaigns.